

CHAPTER FIVE

THE ADMINISTRATION OF CRIMINAL JUSTICE AT THE CAPE OF GOOD HOPE  
1795-1828

5.1. INTRODUCTION

The administration of justice at the Cape cannot be seen separately from the substantive law which was applied during the period 1795 to 1828. Therefore, in order to actualize the administrative of criminal justice during this period, the sources of criminal law are considered and their significance for the administration of justice are explained.

HILTON BASIL FINE

Vol. 2

South African criminal law is a legal system in which Roman-Dutch and English law have been fused together. In this chapter the sources of law which were applied at the Cape during the period of the Dutch East India Company administration will be examined, and the concept of Roman-Dutch law will be explained. The narrowing of the concept to the Roman-Dutch law of the Province of Holland will also be explained. The concept of English law, which has already been mentioned in the first four chapters, will be dealt with in more detail. Selected records of the Court of Criminal

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1. B.M. Surchely, J.B.L. Milton and J.B. Surchely  
Criminal Law and Procedure  
Criminal Law, op. cit., p. 42.

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## CHAPTER FIVE

### 5. THE SOURCES OF THE CRIMINAL LAW AT THE CAPE OF GOOD HOPE

#### 5.1. INTRODUCTION

The administration of justice at the Cape cannot be seen separately from the substantive law which was applied during the period 1795 to 1828. Therefore, in order to actualise the administrative of criminal justice during this period, the sources of criminal law are considered and their significance for the administration of justice are explained.

South African criminal law has been defined as a 'mixed legal system in which Roman-Dutch and English Law have been fused together'.<sup>1</sup> In this chapter the sources of the criminal law which were applied at the Cape during the period of the Dutch East India Company administration will be examined, and the concept of Roman-Dutch Law will be explained. The narrowing of the concept to the Roman-Dutch Law of the Province of Holland during the second British occupation will also be considered. The infiltration or pre-reception of English law, which has already been mentioned in the first four chapters, will be dealt with in greater detail. Selected records of the Court of Criminal

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1. E.M. Burchell, J.R.L. Milton and J.M. Burchell, South African Criminal Law and Procedure. Volume I, General Principles of Criminal Law, op. cit., p. 49.

Appeals, the Court of Justice, and the circuit courts will be analysed in order to demonstrate that the criminal law that was being applied at the Cape was not restricted to the Roman-Dutch Law in the narrow sense of the term, but was more in accordance with the *ius commune* of Western Europe. An investigation of the criminal records will also demonstrate that the criminal law did not remain in a static condition, but was being continually developed and, after the second British occupation, reference was made to English authorities.

Although the criminal law was applied to all the inhabitants at the Cape during this period, this was not always the case. It will accordingly be necessary to refer to the position of the Khoi inhabitants during the period of the Dutch East India Company administration in order to ascertain when and how they were brought within the criminal justice system. The British policy of criminalizing deviations from the structured labour system in order to force the Khoi into the economic system will also be considered. In addition, the position of the slaves, who were subjected to a host of additional criminal sanctions, will be discussed in detail.

## 5.2. COLONIAL ADMINISTRATION UNDER THE DUTCH EAST INDIA COMPANY

In order to understand the sources of criminal that were applied at the Cape during the period 1795 to 1828, it is necessary to trace the system of colonial administration under the Dutch East India Company. Van Riebeeck occupied the Cape in 1652 on behalf of the Dutch

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East India Company, which had its headquarters in the East at Batavia. The settlement at the Cape was regarded as an out-station and it was subject to the authority of the Batavian Government. The Dutch East India Company was administered by a Council of Seventeen Directors, who were stationed at the Hague in the Province of Holland. The Company received its authority to govern the overseas possessions in the East from the Estates-General, which consisted of delegates from the seven provinces of the Republic of the United Netherlands. It was entrusted with the government of the overseas possessions, which belonged to the Republic and not to any individual province.

#### 5.2.1 THE ESTATES-GENERAL

The Republic of the United Netherlands consisted of the independent provinces of Holland, Zeeland, Friesland, Utrecht, Gelderland, Groningen, and Overijssel. It owed its existence to the Union of Utrecht, which was entered into on 23 January 1573. Each province was an independent republic with its own government and laws. The Estates-General had its seat of government at the Hague and consisted of delegates from the seven provinces, who voted in accordance with the instructions of their respective governments.<sup>2</sup> In 1602 the Estates-General granted the Dutch East India Company a monopoly of trade with the lands to the East of the Cape of Good Hope and the Straits of Magellan for twenty-one years.<sup>3</sup> According to De Mist, the

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2. Holland was by far the most wealthy and powerful province, and its representatives accordingly dominated the Estates-General.

3. The Charter was renewed in 1623, 1647, 1665, 1667, 1696, 1740, 1742, 1743, 1748, 1749, 1774, and 1776.

relationship between the Estates-General and the Dutch East India Company was one of sovereign and discoverer.<sup>4</sup> The former retained the *dominium eminens*, which was an extraordinary right of sovereignty that entitled the sovereign to deprive individuals of their property in the case of public necessity or for the benefit of the citizens.<sup>5</sup> The Estates-General could therefore deprive the Company of its grant or override its claims and privileges only in the case of public necessity or for the benefit of its citizens. It could, therefore, perhaps be argued that the Company was vested with legislative authority and that the Estates-General only exercised its right as sovereign when called upon to do so by the Company, or when circumstances arose which necessitated such intervention.<sup>6</sup> This would explain why the Estates-General only availed itself of the right to legislate for the overseas possessions on very few occasions.<sup>7</sup> Furthermore the Company had to make regular reports to the Estates-General on the conduct of its affairs, and the latter must have been fully aware of the legislative authority that had been assumed by the Council of Seventeen, and the Batavian and Cape Governments.

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4. The Memorandum of Commissary J.A. De Mist, op. cit., p. 172.
  5. Simon van Leeuwen, Commentaries on Roman-Dutch Law. Volume I, translated by J.G. Kotzé, London : Stevens and Haynes, 1881, p. 155, footnote (d).
  6. De Wet and Swanepoel argue that the Estates-General was the only body which had legislative authority over the colonies. Die Suid-Afrikaanse Strafrecht, 4de uitgawe deur J.C. de Wet, Durban : Butterworth, 1985, p. 30. See further Pieter Pauw, Die Romeins-Hollandse reg in oënskou 1980 (1) Tydskrif vir die Suid-Afrikaanse Reg 32.
  7. For example on 10 January 1661 it passed an Octrooi for the purpose of regulating the law of intestate succession; and on 10 August 1778 it abolished the confiscation of property belonging to condemned criminals.

### 5.2.2. THE DUTCH EAST INDIA COMPANY

The Dutch East India Company was composed of the chambers of Amsterdam, Zeeland, Delft, Rotterdam, Hoorn, and Enkhuizen. Each chamber was governed by a board of directors, who had to hold shares in the Company. The Estates-General selected seventeen directors and appointed them to a council, which formed the directorate of the Company and was known as the Council of Seventeen. All persons entering into service with the Company had to take an oath of loyalty to the Estates-General and to the Directorate of the Company. They also had to abide by the 'Artikelbriewe' which regulated the maintenance of order and discipline of the Company servants.<sup>8</sup> The appointment of governors and other high officials had to be confirmed by the Estates-General. Amsterdam was the most influential chamber in the Company by virtue of the fact that it had subscribed half the original share capital, and by 1672 it held almost three quarters of the total number of shares issued.<sup>9</sup> Furthermore eight of the seventeen Council members were selected from the Amsterdam chamber. The Council exercised its authority over the overseas possessions by means of directives and in the form of administrative orders. Although the Council itself did not issue legislative acts, it was authorized to issue directives which had the force of law.<sup>10</sup> The directive of the Council to the Governor-General and Council of Batavia of 4 March 1621

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8. Hahlo and Kahn, The South African Legal System and its Background, op. cit., p. 536.

9. Op. cit., p. 535.

10. Spies v Lombard 1950 (3) SA 469 (A) at 482; and Hahlo and Kahn, South Africa : The Development of its Laws and Constitution, op. cit., p. 14.

is particularly significant. The Council instructed the Court of Justice and the College van Schepenen to draft rules of criminal and civil procedure, and included printed ordinances dealing with the administration of justice enacted by the provinces of Holland and West Friesland.<sup>11</sup> They also included the Political Ordinance of 1 April 1580, and recommended that the interpretation by these provinces regarding certain points of the ordinance on intestate succession dated 11 May 1594 and the Placaat dated 18 December 1599 should be followed.

The Batavian Council acted in accordance with the directive, and by a resolution dated 16 June 1625 the ordinances were promulgated with the proviso that they were to be observed in the Republic of Batavia and the Kingdom of Jacarta, 'as far as may be possible having regard to the conditions of these countries'.<sup>12</sup> It was further resolved that in all cases which were not covered by the ordinances, or by local 'plakkaten' issued prior to 1625, the judges had to observe the 'civil laws as they were practised in the United Netherlands'.<sup>13</sup>

### 5.2.3. THE GOVERNOR-GENERAL AND COUNCIL OF BATAVIA

The Dutch East India Company established its headquarters in the East at Batavia. The Eastern settlements were administered by a Governor-

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11. W. Burge, Commentaries on Colonial and Colonial Laws. Volume I, New edition by A.W. Renton and G.G. Phillimore, London : Sweet & Maxwell, 1907, p. 100.
  12. J.A. van der Chijs, Nederlandsch-Indisch Plakaatboek, Volume 9, Batavia : 's-Gravenhage, (1885-1891), p. 126.
  13. Burge, op. cit., p. 100.

General and Council, which was known as the Council of Batavia. The Batavian Government was authorized to issue statutes and ordinances which initially only had the force of law within the boundaries of the town and district of Batavia.<sup>14</sup> However the outlying stations or 'Buiten-comptoiren' were subject to the jurisdiction and administration of the Batavian Government,<sup>15</sup> and the statutes were used and followed in all the 'European Courts of the outlying settlements'.<sup>16</sup> The first recorded case which demonstrated that the Batavian Statutes were in force at the Cape occurred in 1660.<sup>17</sup> An increasing number of these statutes were issued by the Batavian Council after 1619, and it became impossible to know which were still in existence and which had been abolished by subsequent legislation. After many years of preparation, the statutes were arranged in systematic order, amended, and brought up to date by Joan Maetsucker. The collection was promulgated as a code by Governor-General Van Diemen on 1 July 1642.

The code, which became known as the Statutes of India, was sanctioned by the Council of Seventeen and the Estates-General in 1650.<sup>18</sup> The

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14. Burge, op. cit., p. 102. This point of view has been rejected by C.H. van Zyl, *The Batavian and Cape Placaaten* (1907) 24 SALJ 132, 241, 366 and (1908) 25 SALJ 4, 128, 246; De Wet and Swanepoel, op. cit., p. 33; and Pauw, op. cit., p. 41.
  15. Hahlo and Kahn, The South African Legal System and its Background, op. cit., p. 536.
  16. Burge, op. cit., p. 102., footnote (m).
  17. *Fiscal v Herman Pietersz Duurman en Willem Michielsz* (1660) CJ 780, p. 107-109. In this case the accused were sentenced to labour for two years on the common works without wages for attempting to desert from the Cape in contravention of the Statutes of India.
  18. Burge, op. cit., p. 102. For the most recent argument that the Statutes of India were never sanctioned by the Council or the Estates-General, see Pauw, op. cit., p. 41.

Statutes included extracts from the common law of the United Netherlands and the written 'Imperial laws',<sup>19</sup> which were considered suitable for the colonial territories. The Statutes included a clause which stated : <sup>20</sup>

'Further, it has been generally provided that on all points on which in these Statutes no special ordinance has been made, there shall be observed and maintained the laws, statutes and customs of the United Netherlands; and as these are bound sometimes to fail also, then the written Imperial laws shall be used and observed in so far as those are in accordance with and practical in view of the conditions of these countries.'

The Statutes of India were revised and brought up to date in 1776 by J.J. Craan, who was the chief factor at Batavia.<sup>21</sup> After further revision by Louis Taillefert and W.A. Atling, the collection was accepted by Governor-General Van der Parra and his Council on 4 September 1766.<sup>22</sup> The preamble to the collection, which became known as the New Statutes of India, stated that the Statutes were not only to be in force at Batavia, but also : <sup>23</sup>

'For enlightenment and direction of all the judges and judicial officers at all the out-stations of the Netherlands Indies, in so far as they shall be applicable there and the condition of those places and our authority there shall allow, as we desire that the said new local code to that extent shall be considered in force everywhere.'

Although the New Statutes were forwarded to the Council of Seventeen

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19. See for example the regulations relating to slaves. Van der Chijs, op. cit., Volume 1, p. 576.

20. Van der Chijs, op. cit., p. 593.

21. Burge, op. cit., p. 105.

22. Van der Chijs, op. cit., Volume 9, p. 11-23.

23. Op. cit., p. 28.

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on 21 October 1766, they never received their sanction. However they were followed by the courts in the Netherlands Indies for nearly a century.<sup>24</sup>

Commissioner Cornelis Joan Simons,<sup>25</sup> who visited the Cape in 1708, complained about the great increase in the number of local placaten and the excessive fines that were being imposed on the colonists by the Court of Justice.<sup>26</sup> He instructed the court to follow the Statutes of India when imposing fines, and recommended that the government should repeal many of the local placaten and follow the Statutes of India in their place. On 12 February 1715 the Governor and Council at the Cape formally resolved that the Statutes of India had to be followed by the Court of Justice in so far as they did not conflict with the local placaten.<sup>27</sup> There is no evidence to suggest that the New Statutes of India were formally adopted at the Cape.<sup>28</sup> However a manuscript copy of the Batavian Statutes, which is housed in the Cape Supreme Court library, includes all the amendments made to the Statutes of India until 1784.<sup>29</sup>

In 1795 the Cape was occupied by the British, and the Dutch East India

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24. Burge, op. cit, p. 106.

25. Simons was the first independent fiscal at the Cape. In 1694 he left the Cape and was appointed governor of Ceylon.

26. C. Graham Botha, *The Public Prosecutor of the Cape Colony up to 1828* (1918) 35 SALJ 344-345.

27. R v Harrison and Dryburgh 1992 (A) 320, at p. 335-336. See further J.L. Stock, *The New Statutes of India at the Cape* (1915) 32 SALJ 328; C. Graham Botha, *The Common and Statute Law at the Cape of Good Hope during the 17th and 18th Centuries* (1913) 30 SALJ 297; and W.R. Bisschop in (1908) 24 LQR 166.

28. Stock, op. cit. p. 336.

29. Hosten et al, Introduction to South African law and the Legal History, Durban : Butterworth, 1980, p. 191.



Company was forced to relinquish all control over the government at the Cape. In 1798 the administration of the remaining overseas possessions was taken up by the government of the Netherlands, and by 1800 the Company practically ceased to exist.<sup>30</sup>

#### 5.2.4 THE GOVERNOR AND COUNCIL OF POLICY AT THE CAPE

The administration of the out-stations, of which the Cape and Ceylon were the most important, was conducted on similar lines.<sup>31</sup> They were administered by either a governor, a director, or a commander, who were often extraordinary members of the Council of Batavia, and who were nominated by the Council of Seventeen.<sup>32</sup> The governors were assisted by councils which attended to the administrative and judicial functions, but at an early stage the judicial functions were separated. The councils consisted of the governor or commander, the 'secunde' or second in command, the military commander, the fiscal, and one or more officials. On 21 December 1708 the execution of death sentences was expressly forbidden at any of the out-stations, unless sanctioned by the Governor-General and Council at Batavia.<sup>33</sup> All jurisdiction was in the name of the Estates-General, and all general laws had to be approved by the Council of Seventeen before they could be accepted as law throughout the whole of the East Indies.<sup>34</sup> The

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30. Burge, op. cit., p. 106.

31. G.C. Klerk de Reus, Geschiedtlicher Uerblick der Administrativen, Rechtslichen und Finanzellen Entwicklung der Nederländische Ostindische Compahnie, Batavia : 's-Gravenhage, 1894, p. 170-174.

32. Burge, op. cit., p. 106.

33. Klerk de Reus, op. cit., p. 171.

34. Burge, op. cit., p. 107.

Governor-General and Council and the governors at the out-stations were bound to follow the 'laws sanctioned by the Council of Seventeen or the Directors, who invariably in matters of importance asked the sanction of the Estates-General'.<sup>35</sup>

On 30 August 1650 the Council of Seventeen passed a resolution for the purpose of establishing a refreshment station at the Cape of Good Hope. The council, which was established by Commander Van Riebeeck in 1652, had the right to correspond directly with the Council of Seventeen.<sup>36</sup> In October 1656 the council was formally divided for purposes of dealing with administrative, judicial, and military matters. When sitting as a council of policy it consisted of the commander, the secunde and one of the senior officials. When sitting as a court of justice or military tribunal, three additional members were added. In 1685 the membership of the council of policy was enlarged to eight members, and the Court of Justice was reconstituted and consisted of nine members.

When Van Riebeeck departed for the Cape, the Council of Seventeen issued him with a copy of the Instructions of 17 March 1632,<sup>37</sup> which they handed to all commanders of their fleets.<sup>38</sup> In the first article it was stated that : <sup>39</sup>

'Justice shall be done in accordance with the instructions and customs which are as a rule observed in the United

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35. Burge, op. cit., p. 107-108.

36. Op. cit., p. 112.

37. Van der Chijs, op. cit., Volume I, p. 263.

38. Burge, op. cit., p. 114.

39. Van der Chijs, op. cit., p. 263.

Provinces of the Netherlands, as well in civil as in criminal cases, until such time as other special instructions shall be made and forwarded in the name of their High Mightinesses and his Excellency, and which all judges shall for the future have to observe.'

Although the commanders at the Cape were appointed by the Council of Seventeen and had the right to correspond directly with them,<sup>40</sup> they were nonetheless placed under the authority of the Governor-General and Council at Batavia.<sup>41</sup>

In addition to the Instructions of 1632, and the resolution of 12 February 1715 whereby the council of policy formally resolved that the Statutes of India had to be followed by the Court of Justice, the governor and council of policy issued numerous local *placaaten*.<sup>42</sup> Although these *placaaten* acquired the force of law immediately on being promulgated, they were subject to the veto of the Governor-General and Council of Batavia and the Council of Seventeen.<sup>43</sup> The *placaaten* were promulgated by public announcement at the court house and by being posted up in public places. They dealt mainly with local affairs, but also included extracts taken from the Dutch and Batavian statutes. From 1687 onwards, 'Generaale *placaaten*' containing a 'hotchpotch' of local regulations were promulgated and re-promulgated.<sup>44</sup> In the *Statute Law of the Cape of Good Hope*, which was published in 1862, in

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40. The Commanders were designated as Governors from 1690.

41. Burge, op. cit., p. 114.

42. The *placaaten* have been edited by M.K. Jeffreys and published in full in six volumes.

43. Hosten *et al*, op. cit., p. 191.

44. Hahlo and Kahn, South Africa : The Development of its Laws and Constitution, op. cit., p. 16; and A. Wijpkema, Die Invloed van Nederland en Nederlands-Indie op Onstaan en Ontwikkeling van die Regswese in Suid-Afrika tot 1881, Amsterdam : Swets & Zeitlinger, 1934, p. 56-57.

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pursuance of a Report of the Commission appointed in 1857 to enquire into the state of the law at the Cape, only nine placaaaten were regarded as still being in force.<sup>45</sup> By the Cape Statute Law Revision Act, all but two of the pre-British statutes were repealed.<sup>46</sup>

### 5.3 SOURCES OF LAW AT THE CAPE OF GOOD HOPE DURING THE PERIOD OF THE DUTCH EAST INDIA COMPANY ADMINISTRATION

It can be concluded that the following sources of law were applied by the Court of Justice at the Cape during the period 1652 to 1795 :

- 1) The Cape Placaaten.
- 2) The Statutes of India of 1642.<sup>47</sup>
- 3) The Directives of the Council of Seventeen.
- 3) The Ordinances of the Estates-General which were specifically enacted for the overseas possessions.<sup>48</sup>
- 4) The Laws of the United Netherlands.
- 5) The Imperial or Roman Law.<sup>49</sup>

In view of the fact that the Cape Placaaten and the Statutes of India no longer play a role in South African criminal law, it is unnecessary

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45. Hahlo and Kahn, op. cit., p. 55.

46. Act No. 25 of 1934.

47. It can also be accepted that the New Statutes of India of 1766 constituted a material or historical source of law.

48. See in particular the Octrooi of 10 January 1661 which introduced certain provisions of the Political Ordinance of Holland and West Friesland dated 1 April 1580. On 19 June 1714 the council of policy directed the orphan masters to observe the provisions in so far as they had been introduced by the Octrooi.

49. The Roman Law was adopted at the Cape as a subsidiary source of law in the form of the *Corpus Iuris* as received in the Reception, and as a result of a direct reception in as far as the law of slavery was concerned. See further Article 73 of the Criminal Procedure Ordinance of 9 July 1570; and *infra* 5.7.3. for a discussion of the sources of law relating to slavery.

to deal with them in detail. With regard to the legislative enactments of the Estates-General, reference has already been made to the Criminal Procedure Ordinance of 9 July 1570, which has been discussed in detail.<sup>50</sup> It would appear that in a number of cases the South African courts have failed to distinguish the difference between the legislative enactments of the Province of Holland and those of the Estates-General.<sup>51</sup> It will therefore be necessary to investigate the sources of law in the United Netherlands.

### 5.3.1. SOURCES OF LAW IN THE UNITED NETHERLANDS

According to Wessels, the law that was applied in the Republic of the United Netherlands towards the end of the sixteenth century consisted of the following sources : <sup>52</sup>

- 1) The general ordinances which referred to all the provinces of the union.
- 2) The ordinances which applied to the particular province in which the cause of action arose.
- 3) The special privileges of the district, town, village, or estate.
- 4) The special privilege which applied to the plaintiff or defendant.
- 5) The Roman-Dutch Law, i.e. the ancient customs on which was engrafted the Roman Law.
- 6) The Roman Law of the *Corpus Iuris* and in some cases the Canon Law.

The ordinances or plaacaten, which were statutory enactments passed by

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50. See *supra* 3.2.I.

51. Raubenheimer v Executor of Van Breda (1880) Foord 111; Fitzgerald v Green 1911 EDL 432, at p.470-471; Green v Fitzgerald 1914 AD 88, at p. 100; and Heinaman and others v Heinaman 1919 AD 99, at p. 114.

52. Wessels, History of the Roman-Dutch Law, op. cit., p. 206-207.

the sovereign power, bore different names such as 'edicten, missiven, approbatiën, confirmatiën, revocatiën, instructies, and ampliatiën'.<sup>53</sup> They included the ordinances which had been promulgated before the Union and were either of general or specific application. Some applied to all the provinces. Others applied to a particular province, town, district, ward, or person. They were collected and printed in authoritative compilations which were called Placaat Books. The privileges, which were benefits accorded to a particular district or town, were published in Charter Books. Finally many of the towns obtained the privilege of making laws and regulations for their inhabitants, which had to be submitted to the count or his representative. These were known as 'keuren', and were also collected and published in Keuren Books.

One of the most important compilations is the Groot Placaet-Boek, which commenced publication in 1658 and ceased in 1796. It consists of nine large volumes, accompanied by an index volume arranged alphabetically and chronologically. It was commenced by Cornelis Cau and was continued by many eminent jurists, including Simon van Leeuwen and Johannes van der Linden. It commences with a 'diploma' of 15 June 1097 and ends in 1795.<sup>54</sup> Other examples of statutory compilations, which were housed in the library of the Court of Justice, were the

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53. Wessels, op. cit., p. 207.

54. The Court of Justice possessed two copies according to the inventory of law books of 1793. See further Visagie, Regspiegeling en Reg aan die Kaap van 1652 tot 1806, op. cit., p. 120-122. For a list of Placaat Books in South African libraries, see Roberts, South African Legal Bibliography, op. cit., p. 240-241.

second volume of the Placaatboek van Holland,<sup>55</sup> the Handvesten en Willekeuren van Amsterdam,<sup>56</sup> and the Recueil van verscheyde keuren en costumen mitsgaders maniere van procederen binne de stadt Amsterdam.<sup>57</sup>

The ancient customs which were recognized during the sixteenth century as part of the common law of the Netherlands were such as had from time immemorial been recognised as law.<sup>58</sup> According to Wessels, they were derived from various sources, from the *Lex Salica*, the *Lex Ripuaria*, the *Ius Saxionicum*, the *Ius Frisicum*, the *Lex Romana*, the *Capitularia* of the Carolingian monarchs, and other ancient bodies of law.<sup>59</sup> The written laws, which began developing in some of the regions in the eleventh century, took the shape of charters, privileges, liberties, patents granted by the counts and other territorial rulers, municipal and rural laws, decisions, ordinances, court regulations, and market privileges.<sup>60</sup> The written criminal laws corroborated the common law crimes and fixed penalties for newly defined offences.<sup>61</sup> Some of the rural and municipal laws contained fairly complete codifications of criminal law.<sup>62</sup>

The Canon criminal law played a prominent part in influencing the

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55. Published in Amsterdam in 2 Volumes in 1675.

56. First published in Amsterdam in 1639. See further Roberts, op. cit., p. 146.

57. Compiled by Gerard Rooseboom, the Secretary of Amsterdam, and published in 1644.

58. Wessels, op. cit., p. 210.

59. Loc. cit.

60. Von Bar, A History of Continental Criminal Law, op. cit., p. 301.

61. For example, the clipping of coins and the theft of cattle.

62. See for example the Law-Book of Briel by Jan Matthyssen (1400) and the Rural Law of Overijssel by Melchior Wynhoff (1559).



views of the law-givers, and especially the writers of standing who frequently cited ecclesiastical decisions.<sup>63</sup> The judgments of the courts were also influenced by the Canon Law in a narrow sense, and by the authority of Christianity in general. However after the Reformation, the Canon Law proper gradually ceased to be of importance in the development of the criminal law in the Netherlands.<sup>64</sup> The influence of Canon Law occurred largely in the courts of the Southern provinces, and in Utrecht and Middelburg.<sup>65</sup> It therefore had an indirect influence on the courts of Holland.

### 5.3.2. IMPORTANT CRIMINAL LAW WRITERS

Joost Damhouder, who was born at Bruges in Flanders, was the most influential criminal law writer of the Netherlands in the sixteenth century. Damhouder received his legal education at the University of Louvain, and served as the Raadspensionaris of Burges. He was subsequently employed by both Charles the Fifth and Phillip the Second. In 1554 Damhouder produced the *Praxis Rerum Criminalium*, 'which earned him renown not only in the Netherlands but also in Germany and France'.<sup>66</sup> Although Damhouder's work was 'superficial

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63. Von Bar, op. cit., p. 302.

64. Loc. cit.

65. Wessels, op. cit., p. 142. For the influence of Canon Law see also Von Bar, op. cit., p. 79-94.; and Hahlo and Kahn, The South African Legal System and its Background, op. cit., p. 511-514.

66. South African Criminal Law and Procedure, Volume I, op. cit., p. 23. The book was translated from Latin into Dutch, French and German. It was subsequently discovered that Damhouder had plagiarized Phillipus Wielant's manuscript. See further Malcolm Letts, *The Administration of Criminal law in Flanders, chiefly in the Fifteenth Century* (1926) 43 SALJ 390.

and commonplace',<sup>67</sup> it is important because it was accepted as the 'standard work' throughout most of the Netherlands.<sup>68</sup>

Antonius Matthaeus II, who held a chair of law at the University of Utrecht from 1634 to 1654, gained fame throughout Europe in the seventeenth century when his *De Criminibus* was published.<sup>69</sup> The work contains a *Prolegomena* in which the general principles of criminal liability are discussed.<sup>70</sup> The rest of the work consist of a detailed commentary of books forty-seven and forty-eight of the Digest.

Matthaeus has been criticized for being more concerned with Roman law than customary law, which he did not accurately represent. He has also been criticized for making 'no attempt to classify and deal with the specific crimes on the basis of the interests protected'.<sup>71</sup> However Matthaeus was one of the most frequently quoted authors in the Court of Justice at the Cape during the seventeenth and eighteenth centuries.<sup>72</sup>

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67. Von Bar, op. cit., p. 224.

68. Wessels, op. cit., p. 234. It was also one of the first works on criminal law to be cited in the Court of Justice at the Cape. See further Uit die Raad van Justitie, op. cit., p. 374-384.

69. The work was first published in 1644. It was translated into Dutch by J.D. van Leeuwen in 1769 under the title *Verhandelingen over de Misdaden*. See further Van Zyl, Geskiedenis van die Romeinse-Hollandse Reg, op. cit., p. 355. An English translation of part of the Latin version was published in South Africa by Juta and Company in 1987.

70. Matthaeus insisted on *mens rea* for criminal liability and did not adhere to the *versari* doctrine. See further H.L. Swanepoel, Die Leer van 'Versari in re Illicita in die Strafrecht, Kaapstad : Nasionale Pers, 1944, p. 47.

71. South African Criminal Law and Procedure, Volume I, op. cit., p. 24.

72. Graham Botha, *The Common and Statute law at the Cape of Good Hope during the 17th and 18th Centuries* (1913) 30 SALJ 297.

Pieter Bort (1615-1674), who had studied at the University of Leiden and was one of the leading Dutch advocates at the Hague, produced important seventeenth century works on criminal procedure under the titles *Tractaet verklarende het gebruyck van appel in die Provincie van Hollandt einde West-Vrieslandt omtrent crimineele saken*,<sup>73</sup> and *Tractaet van Crimineele Saecken*.<sup>74</sup> Bort also produced a synopsis of the *Rerum Criminalium* of Carpzovius, and many of his opinions were included in the collections of *Consultatien* by the jurists in the Netherlands.<sup>75</sup> His works were highly regarded and were used extensively by later jurists.<sup>76</sup> Bort's works were frequently quoted in the Court of Justice at the Cape during the seventeenth and eighteenth centuries.<sup>77</sup>

During the eighteenth century Johan Moorman, who was born at Hulst and studied under Noodt at Leiden before returning home to practice as an advocate, began to compile an important work on criminal law under the title *Verhandelinge over de misdade en derzelve straffen*. The work, which was incomplete at the time of his death in 1743, was completed and published by Johan Jacob van Hasselt in 1764.<sup>78</sup> Moorman and Van Hasselt's combined work 'relied fairly heavily on Carpzovius

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73. Published in 1652.

74. Published in 1681.

75. South African Criminal Law and Procedure, Volume I, op. cit., p. 24; and Van Zyl, op. cit., p. 382.

76. Roberts, op. cit., p. 57.

77. Graham Botha, *The Common and Statute law at the Cape of Good Hope during the 17th and 18th Centuries*, op. cit., p. 297.

78. Van Hasselt studied at Harderwijk and practised as an advocate in Gelderland. He was highly regarded by his contemporaries. See further Wessels, op. cit., p. 347; and Roberts, op. cit., p. 148.

and Mattheus, but it is tolerably systematically arranged and it has proved very useful in the later development of Roman-Dutch Criminal Law'.<sup>79</sup> In 1792 Bavius Voorda, who studied law at Utrecht and Leiden and practised as an advocate at Leeuwarden before being appointed professor at Franeker, published a commentary on Philip the Second's Ordinance of 1570.<sup>80</sup> Although the work has been described as 'rather unimportant',<sup>81</sup> it was often quoted in the Court of Justice at the Cape. In 1778 Hieronymous Matthaeus Barels published a collection of opinions under the title *Criminele advysen, door verscheide voornaeme Nederlandsche rechtsgeleerden over gewichtige gevallen*.<sup>82</sup> The collection, which consists of seventy-one opinions, was quoted in the Court of Justice at the Cape.<sup>83</sup> During the years 1693 to 1698, Isaak van den Berg published a general collection of 1120 opinions under the title *Nederlandsch Advys-Boek, inhoudende verscheide consultatien en advyzen van voorname regts-geleerden in Neder-land*.<sup>84</sup>

In addition to the above mentioned works which dealt specifically with

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79. South African Criminal Law and Procedure, Volume I, op. cit., p. 24. The work was frequently quoted in the Court of Justice at the Cape.

80. *Die crimineelee ordonnantie van koning Philips van Spanje, laaste graaf van Holland, ten dienste van zijn Nederlanden uitgegeven, Fransch en Nederduitsch, naar de oorspronkelijke drukken van den jare 1570. Vergezeld van eene verhandeling over het verstand van de ordonnantie, op den stijl van procederen in crimineelee zaaken. Mitsgaders van aangteekeningen bij verscheidene artikelen van de ordonnantie.*

81. South African Criminal Law and Procedure, Volume I, op. cit., p. 24.

82. Although Barels was a well-known Amsterdam advocate, none of his own opinions was included in the collection.

83. Van Hasselt's opinions predominate.

84. The 1705 edition consisted of five volumes. The opinions were frequently quoted in criminal cases at the Cape. Graham Botha, *The Common and Statute law at the Cape of Good Hope during the 17th and 18th Centuries*, op. cit., p. 297.

the criminal law, the subject was also treated in the general works of many others jurists.<sup>85</sup>

The development of the criminal law at the Cape during the period of the Dutch East India Company administration coincided with the era of the Dutch Republic when the Roman-Dutch Law was 'in full flower'. The criminal law at the Cape did not remain in limbo while the Dutch writers were bringing the Roman-Dutch Law to its full 'glory', but it breathed the 'spirit' of the *ius commune*. The authorities that were cited in the records of the Court of Justice confirm that : <sup>86</sup>

'Die *ius commune* van Europa gedurende die VOC se bewind tot aan die einde van die agtiende eeu 'n ferme vastrapplek in die Kaap gevind het.'

### 5.3.3. SOURCES OF LAW CITED IN SELECTED CRIMINAL RECORDS OF THE COURT OF JUSTICE 1672-1796

Before the records are considered, the views of the local government

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85. For a general account of the sources of the law and the writers, see Wessels, op. cit., p. 186-190, 201-211, 233-281, and 294-354; Hahlo and Kahn, The South African Legal System and its Background, op. cit., p. 544-565; and Van Zyl, op. cit., p. 316-415.
86. Van Zyl, op. cit., p. 442. See further Wessels, op. cit., p. 355-362; De Wet, *Die Resepsie van die Romeins-Hollandse Reg in Suid-Afrika* (1958) 21 THRHR 84-97 and '*Nederlandse*' *Reg in Suid-Afrika tot 1806* (1958) 21 THRHR 162-175; H.L. Swanepoel, *Oor die Resepsie van die Romeins-Hollandse Reg in Suid-Afrika* (1958) Acta Juridica 7-26; Hahlo and Kahn, South Africa : The Development of its Laws and Constitution, op. cit., p. 13-16 and The South African Legal System and its Background, op. cit., p. 571-575; Hosten et al, op. cit., p. 186-193; S. Scott, *Our legal heritage : the period 1652-1795* (1978) 125 De Rebus Procuratoriis 250-251; and Visagie, Regspleging en Reg aan die Kaap van 1652 tot 1806, op. cit., p. 1-78.

officials and the judges must be examined in order to clarify their approach as to the nature of the law which had to be applied at the Cape. Van Riebeeck was instructed to apply the 'instructions and customs' of the United Netherlands in civil and criminal cases.<sup>87</sup> In 1652 the new method which was used by the nationalist school to describe the legal system of the Province of Holland was a relatively recent development,<sup>88</sup> and the term 'Roomsch-Hollandsch Recht' had not yet been used to describe the new system.<sup>89</sup> When Van Riebeeck granted a discharge to five of the Company servants on 21 February 1657, he declared that : <sup>90</sup>

'They shall be subject to the same civil laws and regulations as are in force in the Fatherland or in India, or such other as it may hereafter be deemed necessary to enact in the interest of the Company or for the common good.'

It is therefore clear that the laws which had to be observed at the Cape were not restricted to the Province of Holland. Van Riebeeck's declaration also indicates that the local administration was authorised to enact laws for the settlement. It follows that the sources of law that were introduced at the Cape consisted of the law

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87. Instructions dated 17 March 1632, which were issued to all commanders of the Dutch fleets.
88. De Groot's *Inleiding tot de Hollandsche Rechtsgeleerdheid* appeared in print for the first time in 1631. Although the title suggests that it was an introduction to the law of Holland, it was in fact a treatise on the law of the United Netherlands.
89. The term first made its appearance in print as a sub-title to Van Leeuwen's *Paratitula iuris novissima*. There is no evidence to suggest that it was cited as authority in criminal trials at the Cape until the eighteenth century.
90. Journal of Jan Van Riebeeck 1656-1658. Volume 2, edited by H.B. Thom, Cape Town : Balkema for the Van Riebeeck Society, 1954, p. 90.

of the United Netherlands, the Statutes of India,<sup>91</sup> and the proclamations of the local administration.

The next reference to the sources of law that were being followed at the Cape appears in the petition of the members of the Court of Justice to Governor De Chavonnes dated 13 February 1715.<sup>92</sup> The judges requested that the governor issue a directive in order to clarify the legal force of the Statutes of India. They stated that were following the 'Roman and present-day laws', and they wanted to know whether they might also follow the Statutes of India which did not 'interfere' with the local laws. The Governor and Council responded to the petition by declaring that the judges 'shall' follow the Statutes of India, provided that they did not conflict with the local enactments.<sup>93</sup> The petition indicates that the judges regarded the Roman Law as an independent source of law at the Cape.<sup>94</sup> It further indicates that the judges were following the eighteenth century laws of the United Netherlands and were not restricting themselves to the laws which applied when the Cape was first colonized. This point is particularly important in view of the conflicting decisions regarding the application of the ordinances of

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91. Within a few months after the arrival of the first slaves, Van Riebeeck promulgated a placaat in which he declared that in accordance with the Statutes of India, no one would be allowed to bind his slave before a beating. Placaat dated 6 August 1658. Kaapse Plakkaatboek, Deel I, p. 36-37.

92. C.H. van Zyl *The Batavian and the Cape Plakaten* (1908) 25 SALJ, p. 250.

93. Op. cit., p. 251.

94. See also Philip the Second's Ordinances of 5 and 9 July 1570, which refer to the written or Roman Laws.

the Province of Holland at the Cape.<sup>95</sup>

A final and conclusive statement of the laws that had been followed during the period of the Company administration appears in the correspondence between the members of the Court of Justice and the first British commandant, Major-General Craig. The judges informed Craig that the laws and customs of the United Netherlands were followed, and that when these laws were silent recourse was had to the Roman Law.<sup>96</sup>

The references to the following records, which have been obtained from four different secondary sources,<sup>97</sup> indicate the nature of the authorities which were cited in the Court of Justice during the period 1672 to 1796. Prior to 1671 there is no reference to authorities in the court records.<sup>97a</sup> The cases were chosen at random from the published material and none of the records have been personally examined. The analysis has been undertaken in order to demonstrate that a relatively sophisticated system of criminal law was being applied and developed at the Cape. It also provides the basis for comparison with the court records during the British occupation.

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95. For a discussion of these decisions see De Wet and Swanepoel, op. cit., p. 39-42; and Hahlo and Kahn, South Africa : The Development of its Laws and Constitution, op. cit., p. 14-15.

96. Letter dated 14 January 1796. Records of The Cape Colony, Volume I, p. 302-304.

97. Vit die Raad van Justitie 1652-1672; C. Graham Botha, *An 18th Century Law Library* (1935) 52 SALJ 177-178; *The Common and Statute Law at the Cape of Good Hope during the 17th and 18th Centuries* (1913) 30 SALJ 292-299; and G.G. Visagie, Regspleging en Reg aan die Kaap van 1652 tot 1806.

97a. Hendrik Crudop, who was appointed acting fiscal in March 1671, was the first office holder to cite authorities in the court records. Vit die Raad van Justitie 1652-1672, op. cit., p. xii.



Roman Law

The Corpus Iuris Civilis <sup>98</sup>

Early Writers in the Southern Netherlands

Joost Damhouder (1507-1581) <sup>99</sup>

Early Writers in the Northern Netherlands

Paulus Merula (1558-1607) <sup>100</sup>

Seventeenth Century Dutch Writers

Hugo Grotius (1583-1645) <sup>101</sup>

Simon van Groenewegen van de Made (1613-1652) <sup>102</sup>

Simon van Leeuwen (1626-1682) <sup>103</sup>

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98. *Fiscal v Five Hottentots* (1672); and *Fiscal v Muller* (1769).

99. Practycke in Criminele Saken. Quoted in *Fiscal v Five Hottentots* (1672); *Fiscal v Gerrit from Batavia* (1714); *Fiscal v Caesar from Madagascar* (1715); *Fiscal v April of Samboua and others* (1726); and *Fiscal v Pietersz* (1757).

100. Manier van Procedern in de Provintien van Holland, Zeeland ende West-Vriesland, belangende Civile Zaaken. Quoted in (1784) CJ 425 at p. 194 and 196; and (1793) CJ 447, at p. 99.

101. Regt des Oorlogs en des Vredes [Translation by H.V. Haerlem]. Quoted in *Fiscal v Swaan* (1762).

102. Tractatus de legibus abrogatis et insuitatis in Hollandia vicinisque regionibus. Quoted in *Fiscal v Five Hottentots* (1672); *Fiscal v April of Samboua and others* (1726); and (1772) CJ 112, at p. 129.

103. Het Roomsche-Hollandsche Recht. Quoted in *Fiscal v April of Samboua and others* (1726); *Fiscal v Pietersz* (1757); *Fiscal v Swaan* (1762); *Fiscal v Muller* (1769); (1715) CJ 319, at p. 218; (1757) CJ 368, at p. 99, 110, and 129; (1787) CJ 425, at p. 187 and 195; (1750) CJ 358, at p. 180. Paratitula iuris novissimi. Quoted in (1757) CJ 368, at p. 90. Proces crimineel. Quoted in (1772) CJ 112, at p. 131; and (1796) CJ 78, at p. 165.

Johannes Voet (1647-1713) <sup>104</sup>  
Pieter Vromans (? -1690) <sup>105</sup>  
Pieter Bort (1615-1674) <sup>106</sup>  
Ulrich Huber (1636-1694) <sup>107</sup>  
Antonius Matthaeus II (1601-1654) <sup>108</sup>

### **Eighteenth Century Dutch Writers**

Johan Moorman (1696-1743) and Johan Jacob van Hasselt (1717-1783) <sup>109</sup>  
Bavius Voorda (1729-1799) <sup>110</sup>  
Eduard van Zurck (1656-1726) <sup>111</sup>

### **Collections of Opinions and Decisions**

Carel van Aller <sup>112</sup>  
Isaac van den Berg <sup>113</sup>  
Jacob Coren <sup>114</sup>  
Hieronymus Matthaeus Barels <sup>115</sup>

104. Commentarius ad Pandectas. Quoted in (1772) CJ 112, at p. 167; and (1795) CJ 453, at p. 382.
105. Tractaet de foro competenti. Quoted in *Fiscal v April of Samboua and others* (1726).
106. Tractaet crimineel. Quoted in *Fiscal v Swaan* (1762); (1795) C.J. 453, at p. 380; and (1796) CJ 78, p. 168.
107. Hedendaegse Rechtsgeleertheyt zoo elders als in Frieslandt gebruikelyk. Quoted in *Fiscal v Swaan* (1762); and (1714) CJ 318, at p. 700; (1715) CJ 319, at p. 220; (1772) CJ 112, at p. 100 and 164; and (1787) CJ 425, at p. 170 and 195.
108. De Criminibus. Quoted in (1772) CJ 112, at p. 130; (1793) CJ 447, at p. 259; and (1796) CJ 78, at p. 168.
109. Verhandeling over de misdaden en derzelver straffen. Quoted in (1772) CJ 112, at p. 87 and 100; (1793) CJ 447, at p. 423; and (1796) CJ 78, at p. 165.
110. De crimineele ordonnantiën. Quoted in (1796) CJ 78, at p. 168.
111. Codex Batavius. Quoted in (1772) CJ 112, at p. 129 and 169.
112. Generale regulen en definitiën van beschreve rechten met verscheyde explicatiën en quaestien onder yder behoorende naar ordre van 't corpus iuris. This work contains decisions, opinions, 'generale regulen', and Van Aller's Tractaet tegen de pijnbank. Quoted in *Fiscal v April of Samboua and others* (1726); (1715) CJ 319, at p. 218; and (1757) CJ 368, at p. 90.
113. Die Nederlandisch Advys-Boek. Quoted in *Fiscal v Swaan* (1762); and (1772) CJ 112, at p. 82.
114. Observationes XLI rerum in supremo senatu Hollandiae, Zeelandiae et Frisiae judicatarum. Quoted in (1787) CJ 425, at p. 188.
115. Criminele advysen, door verscheide voornaeme Nederlansche rechtsgeleerden over gewichtige gevallen. Quoted in (1795) CJ

Hollandsche Consultatien <sup>116</sup>

Bernard van Zutphen <sup>117</sup>

Cornelis Mathiasz van Nieustad (Neostadius) and Jakob Kooren <sup>118</sup>

## Dictionaries

Franciscus Lievens Kesterman (1728-1793) <sup>119</sup>

## German Writers

Benedictus Carpzovius (1595-1666) <sup>120</sup>

Johann Samuel Friedrich Boehmer (1704-1772) <sup>121</sup>

## Ordinances of the Estates-General

Placaat dated 21 July 1730. <sup>122</sup>

## Ordinances of the Province of Holland

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- 453, at p. 383.
116. Quoted in *Fiscal v Swaan* (1762); and (1772) CJ 112, at p. 165.
117. Nederlandsche practycque van verscheyden dagbelycksche soo civile als criminele questien. Quoted in (1772) CJ 112, at p. 83.
118. Hollandsche praktijk in rechten, bestaande in vonnissen, observatien van oordelen en consultatien. Quoted in *Fiscal v Swaan* (1762).
119. Hollandsch rechtsgeleerd Woordenboek. Quoted in (1772) CJ 112, at p. 164.
120. Pracitanova imperialis Saxonica rerum criminalium. Quoted in *Fiscal v April of Samboua and others* (1726); *Fiscal v Swaan* (1762); *Fiscal v Muller* (1769); (1757) CJ 368, at p. 218; (1779) CJ 413, at p. 19, 59 and 469; (1789) CJ 431, at p. 24; (1793) CJ 477, at p. 259, 425, 493 and 524; and (1795) CJ 453, at p. 303. Van Hogendorp's translation under the title Verhandeling der lyfstraffelyke misdaden en haare berechtinge was quoted in *Fiscal v Patientie and another* (1755); *Fiscal v Pietersz* (1757); (1757) CJ 368, at p. 4, 110 and 290; and (1772) CJ 112, at p. 73, 81, 86, 87, 110, and 165.
121. Meditationes in Constitutionem Criminalem Carolinam. Quoted in (1779) CJ 413, at p. 19 and 59.
122. Quoted in *Fiscal v Pietersz* (1757).

Ordinances dated 16 December 1696 and 19 March 1614. <sup>123</sup>  
Placaat dated 19 March 1614. <sup>124</sup>

#### Ordinances of the Province of Friesland

Ordonnantien van Friesland, 2nd. Book, Tit. 9. <sup>125</sup>

#### Keuren en Costumen

Gerard Rooseboom <sup>126</sup>

#### Statutes of India <sup>127</sup>

#### Cape Placaaten

Placaat dated 17 August 1686. <sup>128</sup>  
Placaat dated 3 September 1745. <sup>129</sup>

#### The Bible

Mosaic law <sup>130</sup>

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123. Quoted in *Fiscal v April of Samboua and others* (1726).

124. Quoted in *Fiscal v Muller* (1769).

125. Op. cit.

126. Receuil van verscheyde keuren en costumen mitsgaders maniere van procederen binne de stadt Amsterdam. Quoted in (1714) CJ 318, at p. 700.

127. Quoted in *Fiscal v Carstens and Abrahams* (1656); and *Fiscal v Du Plessis* (1717).

128. Quoted in *Fiscal v Patentie and another* (1755).

129. Quoted in *Fiscal v Muller* (1769).

130. Quoted in *Fiscal v Pietersz* (1757); and *Fiscal v Swaan* (1762). In the Netherlands, 'as late as the end of the 1700s the question was officially mooted in a case of murder, whether justice should be administered according to the Roman law, the Mosaic law, the

It would appear from the above mentioned list of writers that Carpzovius and Van Leeuwen were the most popular authors. Furthermore it is clear that although the Dutch writers of the Province of Holland predominate, the fiscal and the advocates did not restrict themselves to those writers and quoted freely from other sources. However it will be necessary to consult all of the criminal records during this period before any firm conclusions can be drawn.

#### 5.4. SOURCES OF CRIMINAL LAW DURING THE FIRST BRITISH OCCUPATION

When the British occupied the Cape in 1795, they abolished the distinction between Company servants and the free burgher population. The Company ceased to exercise any form of control over the colony and the Ordinances of the Estates-General, the directives of the Council of Seventeen, and the statutes of the Government of Batavia were no longer a creative factor in legal development. The British governors were vested with legislative powers and the Council of Policy was abolished. Although Governor Macartney was instructed to administer the colony 'as nearly as circumstances will permit ... in conformity to the laws and institutions that subsisted under the ancient government of the settlement', he was authorized to introduce changes in the administration 'not only in cases of emergency but also where they would be evidently beneficial or desirable'.<sup>131</sup> Macartney's instructions were unique in that he was given the opportunity to make

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Carolina, or an old Charter of 1342'. Von Bar, History of Continental Criminal Law, op. cit., p. 306.

131. Manning, British Colonial Government after the American Revolution 1782-1820, op. cit., p. 399-400.

improvements in the government of the Cape, instead of being bound hand and foot to follow precedent.<sup>132</sup> Although Macartney was given a great deal of latitude in his instructions, he exercised these powers sparingly. The most radical change which was of lasting significance to the administration of criminal justice and the criminal law was implemented on 17 May 1797, when Macartney abolished the use of torture and other barbarous modes of execution. The full significance of this measure was commented on in *Rex v Kumalo* by Schreiner J A, who stated that : <sup>133</sup>

'It is well known that in matters of criminal procedure our practice has changed so radically that the writers of those times (seventeenth- and eighteenth-century Holland) furnish us with little assistance; and particularly is this the case in the field of punishment. The fact that a particular form of punishment was regarded as permissible or appropriate in the eighteenth century or earlier is a poor reason for holding that it may be imposed today.'

Although Macartney suggested that the members of the Court of Justice should be well trained in Roman Law, he retained the existing bench, which he reduced from from twelve to seven judges, and he assigned a fixed salary to each of them.<sup>134</sup> An analysis of the criminal records of the Court of Justice during the period of the first British occupation reveals that Damhouder,<sup>135</sup> Matthaeus,<sup>136</sup> Moorman and Van

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132. Records of The Cape Colony, Volume I, p. 317.

133. 1952 (1) SA 381 (A) at 385.

134. Records of The Cape Colony, Volume 2, p. 135. See further Macartney's proclamation of 17 July 1797, which introduced a summary form of procedure for the trial of petty offences. Kaapse Plakkaatboek, Deel 5, p., 92-93.

135. Quoted in (1800) CJ 480, at p. 395; and (1802) CJ 485, at p. 477.

136. Quoted in (1796) CJ 78, at p. 168; and (1797) CJ 468, at p. 694.

Hasselt,<sup>137</sup> and Bort,<sup>138</sup> were frequently quoted. In addition reference was also made to Merula,<sup>139</sup> Voet,<sup>140</sup> Van Leeuwen,<sup>141</sup> Vromans,<sup>142</sup> Voorda,<sup>143</sup> Kesterman,<sup>144</sup> and Lulius.<sup>145</sup> Van der Linden,<sup>146</sup> who was the last writer on the Roman-Dutch Law, also featured in the records. The German writers continued to feature strongly and both Carpzovius,<sup>147</sup> and Gaill,<sup>148</sup> were quoted. Reliance was also placed on extracts from the Bible.<sup>149</sup>

The analysis demonstrates that the latest developments in the criminal law of the Netherlands were being closely followed by the lawyers at the Cape and were being incorporated into local practice. Although the British occupation put an end to the further incorporation of Batavian and Dutch statutory law, it failed to have

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137. Quoted in (1796) CJ 78, at p. 165; (1797) CJ 468, at p. 623, 624, and 625; (1798) CJ 472, at p. 24 and 108; and (1802) CJ 485, at p. 475, 476 and 737.
138. Quoted in (1796) CJ 78, at p. 166.
139. Quoted in (1798) CJ 472, at p. 593.
140. Quoted in (1797) CJ 468; (1796) CJ 78, at p. 165.
141. Quoted in (1796) CJ 78, at p. 165 and 166; (1798) CJ 472, at p. 106 and 107; and (1800) CJ 480, at p. 396.
142. Quoted in (1798) CJ 472, at p. 592 and 595.
143. Quoted in (1796) CJ 78, at p. 168.
144. Sleutel der crimineel ptactijk. Quoted in (1800) CJ 480, at p. 399.
145. Quoted in (1798) CJ 468, at p. 168. Didericus Lulius and Van der Linden produced an improved edition of Merula's, Manier van Procederen. Lulius also collaborated with Van der Linden in producing the Honderd rechtsgeleerde observatiën, dienende tot opheldering van verscheide ... passagiën uit de Inleiding tot de Hollandsche rechtsgeleerdheid van H. de Groot.
146. Quoted in (1798) CJ 468, at p. 168.
147. Quoted in (1797) CJ 468, at p. 626; (1798) CJ 472, at p. 108 and 564; (1800) CJ 480, at p. 398; and (1802) CJ 485, at p. 475.
148. Quoted in (1798) CJ 472, at p. 107. Andreas Gaill[1] (1526-1578) was a contemporary of Damhouder. For a list of his works, see Roberts, op. cit., p. 126.
149. Quoted in (1798) CJ 472, at p. 150.

any influence on the continued application of the European *ius commune* at the Cape.

## 5.5. SOURCES OF LAW DURING THE BATAVIAN OCCUPATION

Although the Batavian occupation lasted for only three years, it did serve to reunite the Cape with the Netherlands. During this period, De Mist created a professional bench of lawyers and drew up detailed rules for the Court of Justice.<sup>150</sup> The rules, which remained in force until the abolition of the Court of Justice in 1827, contained a provision which directed the judges to follow 'de styl en practycq voor den Hove van Holland' whenever necessary.<sup>151</sup> This provision must have influenced the judges and advocates when choosing the appropriate authorities in matters of substantive law and can therefore be seen as a contributing factor which led to the narrowing of the definition of Roman-Dutch Law to the Province of Holland.

## 5.6. SOURCES OF LAW DURING THE SECOND BRITISH OCCUPATION 1806-1828 <sup>152</sup>

### 5.6.I. INTRODUCTION

During the second British occupation, the Roman-Dutch Law of the Province of Holland began to assert itself as the predominant source of common law at the Cape. The two most important legal officials at

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150. Provisioneele Instructie voor den Raad van Justitie. BR 496.

151. Article 39.

152. See further, Van der Merwe, *Regsinstellings en die Reg aan die Kaap van 1806 tot 1834*, op. cit., p. 201-238.



the Cape, Sir John Truter and Daniel Denyssen, had both received their legal education at Leiden, and it would be natural to expect them to follow the laws of the Province of Holland in preference to those of the other provinces. The truth of this assumption is evident in the evidence given by the Chief Justice to the Commissioners of Inquiry. When Sir John Truter was asked to explain how the judges approached the different sources of law, he stated : <sup>153</sup>

'In the first place I should say that we ... follow the dispositions of the local law, or statutes, made by the government from time to time. Next those that were sent either from the Mother Country or from Batavia for the express purpose of being made obligatory in the colony. Next the Dutch common law and *principally that of the Province of Holland*, comprehending the Roman law which is really incorporated with the Dutch law but with some exceptions.'

Truter stated that there were three collections of the local placaten in the colony. One was housed in the Colonial Office, another in the Fiscal's Office, and the third was kept in the office of the secretary of the Court of Justice. He confirmed that Van Diemen's codification of the Statutes of India had been formally received as authority in 1715. According to Truter there were only two official copies of the Statutes of India in the colony. One was housed in the Colonial Office and the other was kept in the office of the secretary of the Court of Justice. Truter stated that he also possessed a copy and that he was aware of a number of other copies which were not authentic. He conceded that it was very difficult to determine the authenticity of the individual statutes that were contained in these

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153. Records of The Cape Colony, Volume 33, p. 265-266.

collections. However he pointed out that, with the exception of the statutes dealing with the laws of slavery, the Batavian statutes were seldom cited in the courts. Truter confirmed that the practitioners referred to English authorities in their pleadings, but he stated that they were only accepted as law in some commercial cases.<sup>154</sup>

Daniel Denyssen dealt with his approach to the Roman Law in a report on Burnett's petition to the House of Commons.<sup>155</sup> He explained that the Roman Law was subsidiary to the laws of the United Provinces, and to the statutory laws of East India which were in force at the Cape. He explained that when he referred to the Roman Law as a subsidiary source of law, he used the *Corpus Iuris* and did not take into account the earlier Roman Laws such as the Twelve Tables.<sup>156</sup>

The narrowing of the definition of the Roman-Dutch Law was advanced by the British Government when the Secretary of State for Colonies introduced a translation of the 1744 edition of Van Leeuwen's *Het Roomsche-Hollandsche Recht* as authority in the former Dutch colonies.<sup>157</sup> The authorities at the Cape clearly felt the need for clarification on the subject and this was expressed when P. B. Borchers was instructed to compile an English translation of the criminal law section of

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154. Op. cit., p. 267.

155. Burnett was found guilty on a charge of criminal libel. See supra 1.2.3.5. for a discussion of the case.

156. Records of The Cape Colony, Volume 23, p. 277.

157. Records of The Cape Colony, Volume 24, p. 103. The translation was printed in London in 1820. Roberts, South African Legal Bibliography, op. cit., p. 184.

Van der Linden's *Rechtsgeleerd practicaal en koopmans handboek*.<sup>158</sup> The translation was printed by the government press in 1822, but it was not distributed, presumably because the translation of Van Leeuwen's work had been introduced as authority at the Cape. However the attempt by the British Government to apply a fixed meaning to the concept of Roman-Dutch Law failed, and the problem has remained unresolved.<sup>159</sup>

The policy of Anglicisation and the pervading influence of the English Law endangered the continued survival of the Roman-Dutch Law.<sup>160</sup> In order to ensure its survival, the judiciary and the legal practitioners had to present it as an accessible and manageable system. They would therefore be inclined to place greater reliance on the most accessible and up to date authorities, which were printed in Dutch and were published in Holland. This could go some way toward explaining why the *Corpus Iuris*, which was readily accessible and well-known, was cited so frequently in the Cape courts. After examining the records of the criminal trials, the Commissioners of Inquiry observed that :<sup>161</sup>

'Recourse has been more frequently had in the definition and punishment of crime to the enactments of the Roman Code than to those of the provinces of Holland or even to the local statutes.'

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158. A copy of the translation was annexed to the original Report of the Commissioners of Inquiry on the Criminal Law and Jurisprudence. *Records of The Cape Colony*, Volume 33, p. 340.
159. See further D.P. Visser, *Daedalus in the Supreme Court - The Common Law Today*. Inaugural Lecture dated 1 May 1985. Cape Town : Publications of the University of Cape Town, (New Series 107), 1985, p. 6-9 (Also published in (1986) 48 *THRHR* 127 ff; and D.P. Visser and D.B. Hutchison, *Legislation from the Elysian Fields : The Old Authorities Settle an Old Dispute* (1988) 105 *SALJ* 627ff.
160. L.F. van Huyssteen, *Kaapse strafregspreek vanaf ongeveer 1807-1827 : 'n voorlopige evalueering* (1989) *South African Journal of Criminal Justice* 287.

The validity of the above mentioned observation will now be tested against an analysis of the records of twenty-five criminal cases which have been selected from the records of the Court of Criminal Appeals and the Court of Justice during the period 1810 to 1827.

#### 5.6.2. ANALYSIS OF SELECTED RECORDS OF THE COURT OF CRIMINAL APPEALS AND THE COURT OF JUSTICE 1810-1827

##### Roman Law

Twelve Tables <sup>162</sup>  
Cicero <sup>163</sup>  
Corpus Iuris <sup>164</sup>

##### Early Writers in the Northern Netherlands

Paulus Merula (1558-1607) <sup>165</sup>

##### Seventeenth Century Dutch Writers

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161. Records of The Cape Colony, Volume 33, p. 5.  
162. Maraïs v Landdrost of Tulbagh (1820) CJ 610.  
163. Loc. cit.  
164. Fiscal v Galant and Others (1825) Records of The Cape Colony, Volume 20, p. 188-341; Landdrost of Stellenbosch v Gebhardt (1822) Records of The Cape Colony, Volume 33, p. 281-325; Sauer v Landdrost of Graaff Reinet (1822) GH 47/2/23, p.38-149; Visagie and Others v Landdrost of Tulbagh (1814) GH 47/2/9 and GH 47/2/10; De Villiers v Landdrost of Stellenbosch (1822) Records of The Cape Colony, Volume 33, p. 131-220; Fiscal v Edwards (1824) Records of The Cape Colony, Volume 17, p. 373-452; Fiscal v Zinn (1823) Records of The Cape Colony, Volume 33, p. 340-388; Fiscal v Cathryn (1826) CJ 635; Fiscal v Candasa (1822) CJ 620; Landdrost of Stellenbosch v Van Blommenstein (1823) CJ 625; Fiscal v Peck (1819) CJ 640; and Landdrost of George v Zaayman (1819) CJ 600.  
165. Maniere van procederen. Quoted in Fiscal v Cathryn (1826) CJ 635.

- Hugo Grotius (1583-1645) <sup>166</sup>  
Simon van Groenewegen van de Made (1613-1652) <sup>167</sup>  
Simon van Leeuwen (1626-1682) <sup>168</sup>  
Johannes Voet (1647-1713) <sup>169</sup>  
Ulrich Huber (1636-1694) <sup>170</sup>  
Antonius Matthaeus II (1601-1654) <sup>171</sup>  
Cornelis van Eck (1662- ?) <sup>172</sup>

## Eighteenth Century Dutch Writers

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166. Inleydinghe tot de Hollandsche Rechtsgeleerdheyd. Quoted in *Fiscal v Edwards* (1824) Records of The Cape Colony, Volume 17, p. 373-452; *Marais v Landdrost of Tulbagh* (1820) CJ 620; and *Cauvin v Fiscal* (1823) CJ 625.
167. De legibus abrogatis. Quoted in *Fiscal v Edwards* (1824) Records of The Cape Colony, Volume 17, p. 373-452; and *Fiscal v Candasa* (1822) CJ 620.
168. Het Rooms-Hollandsch Recht. Quoted in *Fiscal v Galant and Others* (1825) Records of The Cape Colony, Volume 20, p. 188-341; *Fiscal v Edwards* (1824) Records of The Cape Colony, Volume 17, p. 373-452; *Marais v Landdrost of Tulbagh* (1820) CJ 610; and *Fiscal v Harding* (1827) CJ 640. Censura forensis. Quoted in *Fiscal v Edwards*, op. cit., 373-452.
169. Commentarius ad Pandectas. Quoted in *Landdrost of Stellenbosch v Gebhardt* (1822) Records of The Cape Colony, Volume 33, p. 281-325; *Sauer v Landdrost of Graaff Reinet* (1822) GH 47/2/23, p. 469-497 and GH 49/22, p. 38-49; *Fiscal v Edwards* (1824) Records of The Cape Colony, Volume 17, p. 373-452; *Marais v Landdrost of Tulbagh* (1820) CJ 610; *Fiscal v Cathryn* (1826) CJ 635; and *Fiscal v Candasa* (1822) CJ 620.
170. Hedendaegsche Rechtsgeleerheyd. Quoted in *Landdrost of Stellenbosch v Van Blommenstein* (1823) CJ 625; and *De Villiers v Landdrost of Stellenbosch* (1822) Records of The Cape Colony, Volume 33, p. 131-220.
171. De Criminibus. Quoted in *Fiscal v Galant and Others* (1825) Records of The Cape Colony, Volume 20, p. 188-341; *Sauer v Landdrost of Graaff Reinet* (1822) GH 47/2/23, p. 469-497 and GH 49/22, p. 38-149; *Visagie and Others v Landdrost of Tulbagh* (1814) GH 47/2/9 and GH 47/2/10; *Fiscal v Edwards*, (1824) Records of The Cape Colony Volume 17, p. 373-452; *Fiscal v Zinn* (1823) Records of The Cape Colony, Volume 33, p. 340-388; *Fiscal v Cathryn* (1826) CJ 635; *Fiscal v Harding* (1927) CJ 640; *McCarthy v Fiscal* (1827) CJ 640; and *Landdrost of George v Zaayman* (1819) CJ 600.
172. Principia iuris civilis, secundum ordinem digestorum. Quoted in *Fiscal v Zinn* (1823) Records of The Cape Colony, Volume 33, p. 340-388.

Johan Moorman (1696-1743) and Johan Jacob van Hasselt (1717-1783) <sup>173</sup>  
Johannes van der Linden (1756-1835) <sup>174</sup>  
Dionysius Godefried van der Keessel (1734-1797) <sup>175</sup>

### Collections of Opinions and Decisions

Hieronymus Matthaeus Barels <sup>176</sup>

### German Writers

Benedictus Carpzovius (1595-1666) <sup>177</sup>  
Johann Samuel Friedrich Boehmer (1704-1772) <sup>178</sup>

173. Verhandelinge over de misdaden en der selver straffen. Quoted in Visagie and Others v Landdrost of Stellenbosch (1822) Records of The Cape Colony, Volume 33, p. 131-220; and Halloran v Fiscal (1810) GH 47/2/1 and GH 47/2/2.
174. Koopmans Handboek. Quoted in De Villiers v Landdrost of Stellenbosch (1822) Records of The Cape Colony, Volume 33, p. 131-220; Fiscal v Edwards (1824) Records of The Cape Colony, Volume 17, p. 373-452; Fiscal v Zinn (1823) Records of The Cape Colony, Volume 33, p. 340-388; Fiscal v Cathryn (1826) C.J. 635; Cauvin v Fiscal (1823) C.J. 635; McCarthy v Fiscal (1827) CJ 640; and Fiscal v Peck (1827) CJ 640.
175. Theses selectae juris Hollandici et Zeelandici. Quoted in Fiscal v Edwards (1824) Records of The Cape Colony, Volume 17, p. 373-452.
176. Crimineele advysen. Quoted in Landdrost of Stellenbosch v Gebhardt (1822) Records of The Cape Colony, Volume 33, p. 281-325; and Visagie and Others v Landdrost of Tulbagh (1814) GH 47/2/9 and GH 47/2/10.
177. Rerum criminalium. Quoted in Fiscal v Galant and Others (1825) Records of The Cape Colony, Volume 20, p. 188-341; Landdrost of Stellenbosch v Gebhardt (1822) Records of The Cape Colony, Volume 33, p. 281-325; Visagie and Others v Landdrost of Tulbagh (1814) GH 47/2/9 and GH 47/2/10; Fiscal v Cathryn (1826) CJ 635; Fiscal v Peck (1827) CJ 640; and Landdrost of George v Zaayman (1819) CJ 600. Van Hogendorp's translation was quoted in Halloran v Fiscal (1810) GH 47/2/1 and GH 47/2/2.
178. Meditationes in constitutionem criminalem Carolinam. Quoted in Fiscal v Galant and Others (1825) Records of The Cape Colony, Volume 20, p. 188-341; Sauer v Landdrost of Graaff Reinet (1822) GH 47/2/23, p. 469-497 and GH 49/22, p. 38-149; Visagie and Others v Landdrost of Tulbagh (1814) GH 47/2/9 and GH 47/2/10; Marais v Landdrost of Tulbagh (1820) CJ 610; Fiscal v Cathryn (1826) CJ 635; Fiscal v Peck (1827) 640; and Fiscal v Candasa (1822) CJ 620.

Augustinus Leyser (1683-1752) <sup>179</sup>  
Gallus Caspar Aloys Kleinschrod (1762-1824) <sup>180</sup>

### Ordinances of the Estates-General

Ordinance dated 27 January 1692. <sup>181</sup>  
Ordinance dated 7 March 1754. <sup>182</sup>

### Statutes of India

Statute dated 15 January 1682. <sup>183</sup>  
Statute dated 20 August 1794. <sup>184</sup>

### Cape Placaaten

Placaat dated 25 October 1740. <sup>185</sup>  
Placaat dated 11 October 1740. <sup>186</sup>  
Placaat dated 16 June 1774. <sup>187</sup>  
Placaat dated 22 August 1794. <sup>188</sup>  
Proclamation dated 16 October 1795. <sup>189</sup>  
Proclamation dated 29 September 1809. <sup>190</sup>  
Proclamation dated 7 June 1814. <sup>191</sup>

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179. Meditationes ad pandectas. Quoted in *Fiscal v Candasa* (1822) CJ 620.
180. Grundbegriffe und Grundwahrheiten des peinlichen Rechts. Quoted in *Fiscal v Zinn* (1823) Records of The Cape Colony, Volume 33, p. 340-388.
181. *Fiscal v Edwards* (1824) Records of The Cape Colony, Volume 17, p. 373-452.
182. Loc. cit.
183. *De Villiers v Landdrost of Stellenbosch* (1822) Records of The Cape Colony, Volume 33, p. 131-220;
184. *Pajang v Landdrost of the Cape District* (1825) GH 47/2/27, p. 1-159; and *Lodewyk v Fiscal* (1827) GH 47/2/28.
185. *Visagie and Others v Landdrost of Tulbagh* (1814) GH 47/2/9 and GH 47/2/10.
186. *De Vos v Landdrost of Stellenbosch* (1818) GH 47/2/21, p. 160-445.
187. *Theron v Landdrost of Graaff Reinet* (1821) GH 47/2/18, p. 1-304.
188. *Shortt v Fiscal* (1817) GH 47/2/14, p. 97-203.
189. *Munnings v Fiscal* (1817) GH 47/2/17, p. 243-386.
190. *Young and Others v Fiscal* (1813) GH 47/2/6, p. 1-257 and GH 49/4, p. 993-997.
191. *Shortt v Fiscal* (1817) GH 47/2/14, p. 97-203.

## English Writers

Blackstone <sup>192</sup>

Russell, Holt, Gilbert, Burn, Herber, Phillips, and Chitty <sup>193</sup>

It would appear that the *Corpus Iuris* was the most popular source of law. Matthaeus was quoted in the majority of cases and the German authors, Carpzovius and Boehmer, appear to have been held in high regard. It is significant that Blackstone was quoted regularly, notwithstanding Sir John Truter's evidence that the English authorities were not accepted as law in criminal cases. This would suggest that the English Law had begun to infiltrate the substantive criminal law at the Cape before the establishment of the Cape Supreme Court in 1828. The infiltration or 'pre-reception' of English criminal law can be explained as a positive reaction to the policy of Anglicisation and to the role played by the Court of Criminal Appeals. The fact that the lawyers quoted from a broad selection of sources suggests that the concept of Roman-Dutch Law was being interpreted in the wider sense of the term. It is accordingly suggested that in the field of criminal law, the orthodox narrow view of Roman-Dutch Law should be rejected in favour of a broader interpretation which would include the *ius commune*. The fact that the sources of criminal law

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192. *Landdrost of Stellenbosch v Gebhardt* (1822) Records of The Cape Colony, Vol. 33, p. 281-325; *Landdrost of Vitenhage v Prinsloo and Others* (1816) Slachters Nek, edited by H.C.V. Leibbrandt, Cape Town : Juta, 1902; *Sauer v Landdrost of Graaff Reinet* (1822) GH 47/2/23, p. 469-497 and GH 49/22, p. 38-149; *Visagie and Others v Landdrost of Tulbagh* (1814) GH 47/2/9 and GH 47/2/10; *Fiscal v Edwards* (1824) Records of The Cape Colony, Volume 17, p. 373-452; *Fiscal v Zinn* (1823) Records of The Cape Colony, Volume 33, p. 340-388..

193. *Fiscal v Edwards*, (1824) Records of The Cape Colony, Volume 17, p. 373-452.



under the Dutch East India Company administration were not restricted to the laws of Holland and that authority was sought from sources outside the Netherlands supports the view that a broader approach is academically sound. The relatively primitive conditions which prevailed in the overseas colonies must also be borne in mind. The directives relating to the sources of law always included a proviso that the laws were to be applied in as far as the local circumstances permitted. The solution to the problem must accordingly be sought in the nature of the law that was actually being applied in the courts at the Cape and in the fact that it was dynamic in character. The *ius commune* did not stop at the borders of Europe, but travelled to the Cape and the other Dutch colonies. The law that was brought to the Cape was not a polished version of the Roman-Dutch Law, but rather a rough version which awaited polishing. The records of the Court of Justice provide ample evidence that the lawyers did not consider themselves to be exclusively bound by the laws of any specific province of the Netherlands, and they made use of all the available tools of the *ius commune* of Western Europe. The nature of the criminal procedure was such that the courts were not called upon to pass judgment in the modern sense of the term. The courts had to pass 'sentences' which were based on the on the claims and demands presented by the prosecutors. When presented with a claim and demand, the function of the judges was to either approve or reject the claim. If the sentence demanded was fixed according to the law, the judges merely pronounced it. However if the sentence was discretionary, the judges had to impose an appropriate sentence.

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### 5.6.3. DETAILED ANALYSIS OF SELECTED CRIMINAL COURT RECORDS

In view of the lengthy nature of the criminal records, the analysis will concentrate on the claims and demands, which will be presented in a summary form with emphasis on the legal argument. The argument advanced by counsel and the opinions of the assessors will also be presented in summary form when the cases that have been selected from the records of the Court of Criminal Appeals are considered. The cases, which have been selected at random from the records of the Court of Justice, include trials conducted under the Ordinance of 1570 and the Crown Trial of 1819. The cases include prosecutions conducted by the fiscal, and prosecutions conducted *ex officio* on behalf of the landdrosts. The trial of the Slagtersnek rebels has been chosen in order to illustrate a circuit court trial. However it must be borne in mind that the prosecutor was not a qualified lawyer. The cases which have been selected from the Court of Criminal Appeals were chosen on account of the availability of opinions by the assessors. Finally the cases have been selected in order to test the hypothesis that the records constitute a valuable source of the criminal law, and a variety of cases have been included, rather than restricting the analysis to a particular crime.

The case of the *Landdrost of The Cape District v Stadler and Stadler* (1811) represents a trial which was conducted under the Ordinance of 1570.<sup>194</sup> The prosecution was conducted before the Court of Justice by

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194. GH 47/2/4, p. 1-371; GH 47/2/5; and GH 47/1/1, p. 29.

Advocate Buyskes on behalf of the landdrost. The accused were charged with ill-treating a slave named Patientie, who it was alleged died as result of the ill-treatment. In his claim and demand the prosecutor stated that the first accused, who was accompanied by P.E. van Schalkwyk, came across two slaves while travelling to Cape Town. The slaves appeared to be grappling with one another and the first accused separated them. One of the slaves, who appeared to have been severely beaten by the other slave, was recognized to be a slave belonging to the second accused. The other slave, who was called Patientie, belonged to the burgher Gillow. The first accused tied him up and sent him by waggon to the second accused's house. When they arrived at the second accused's house, Patientie was locked in a room. While attempting free himself from his bonds, Patientie woke up a servant who then informed the second accused. The second accused ordered that Patientie be placed on top of a heap of grain to prevent him from hurting himself. The next morning Patientie was taken out of the room and tied to a pole. He was then securely bound and placed on top of a waggon and sent to Cape Town. During the course of the journey he died. His body was delivered to the gaol, where it was examined by Dr. Biccard. No external marks of ill-treatment were visible, but on opening the deceased's skull 'a quantity of blood burst forth'.

The prosecutor claimed that the first accused had prevented an investigation into the beating of the other slave and that the second accused had no right to detain Patientie, especially in view of the

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fact that it was his own slave who had been beaten by him. He stated that, notwithstanding his complaints, Patientie was not granted the 'smallest relief', except a small quantity of water which he obtained by stealth. He pointed out that by ordering Patientie to be placed on the waggon, the second accused had caused him to be exposed to the 'insufferable heat of the day', and the binding itself had caused him excruciating pain. The prosecutor drew attention to those parts of the deceased's body which were 'much swollen' by the ropes. He concluded by stating that the conduct of the second accused was an additional cause of Patientie's untimely death, and that the arbitrary act of the first accused contributed towards the act.

The prosecutor then proceeded to argue the law and based his claim on culpable homicide, which he termed *homicidium casuale*. He pointed out that the degree of negligence, which he termed 'imprudence', was punishable in proportion to the circumstances of the case. He cited Moorman on Crimes,<sup>195</sup> and Carpzovius to support his argument that culpable homicide was punishable under the law.<sup>196</sup> The sole issue to be considered was whether the two accused were equally punishable. The first accused was the original cause of the ill-treatment and the second accused not only approved of the ill-treatment, but persevered in it and even aggravated it. Although he conceded that neither of the accused had intended to kill the deceased, no person had the right to 'trifle with the liberty and health of a fellow human being'. In order

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195. Verhandelinge over de misdaden en der selver straffen, 2.I.5.

196. Practica nova imperialis Saxonica rerum criminalium, *Prima questione*, 27.34.

to establish a causal connection between the negligent conduct of two accused and the death of the deceased, he referred to the post mortem examination and stated that it had failed to reveal the presence of any disease or 'complaint'. He then addressed the question of punishment and demanded that each of the accused should be sentenced to pay a fine of one thousand rixdollars for establishing an orphan home, and that they be condemned in costs. However the Court rejected the claim and demand, and the prosecutor was ordered to pay the costs of the trial.

In his argument before the Court of Appeal, the prosecutor repeated his claim that the two accused were guilty of culpable homicide. He argued that the respondents were not qualified to take the law into their own hands. He added that the mere fact that the slaves were fighting was not sufficient cause to bind the deceased and send him to the house of the second respondent. He pointed out that there was no proof that the deceased had attacked the other slave. However, even if there had been sufficient reason to bind the deceased, the first respondent was obliged to deliver him to the nearest field-cornet or to the town prison. Furthermore, the second respondent had no grounds for receiving the deceased and treating him as a prisoner. He argued that the manner in which the second respondent had treated the deceased was 'a heavy punishment which no philanthropic judge would ever inflict'. He pointed out that according to the evidence of the slaves, the treatment meted out to the deceased was carried out on the express orders of the two respondents. He referred to the post

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mortem examination and stated that it had proved conclusively that the deceased had died as a result of a blow to his head. He concluded his argument by claiming that the two respondents were responsible for Patientie's death; the first respondent by giving orders for his binding, and the second respondent by causing him to be thrown on the stone floor.

Daniel Denyssen, who argued the appeal on behalf of the respondents, stated that the deceased had been apprehended while he was in the process of robbing the second accused's slave. He maintained that the respondents were entitled to bind him and take him into custody. He pointed out that it was necessary to bind the deceased because he had resisted arrest. He denied the appellant's claim that the second respondent had refused to provide the deceased with food and drink, and stated that the deceased declined the offer, 'perhaps feeling some internal symptoms of illness'. He rejected the argument that the conduct of the respondents was responsible for the death of the deceased and stated that the medical examiner had not been able to determine the cause of death. He suggested that 'Divine Providence had been the worldly judge in punishing a villain'. He pointed out the first respondent did not have an opportunity to send the deceased to Cape Town, and that he did not know where the field-cornet of the district lived or who he was.

The assessor, Henry Alexander, was of the opinion that the respondents had acted unlawfully in confining and detaining the deceased. He

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termed their conduct 'improper and illegal'.<sup>197</sup> He pointed out that if the assault had involved a stranger, the first respondent would have most probably passed by as his companions did, after separating the combatants. However, instead of requesting his companions to carry the slave Patientie to Cape Town on their waggon, the first respondent sent him to his brother's home and continued on his journey. Furthermore, the second respondent had confined the slave overnight instead of sending him to the field-cornet. According to Alexander, 'the unfortunate deceased appeared to have been committed to slaves, probably irritated by their comrades ill-treatment, but who certainly appeared to have been so strongly influenced by their master having tied him, that they would not venture to untie, or relieve the prisoner, and who so literally executed their master's orders as to bring him dead, tied in the manner described, to the tronk'. He came to the conclusion that it was 'impossible not to consider the whole as illegal imprisonment'.

Alexander pointed out that the deceased was complaining and making noises throughout the night, but that nothing was done in order to understand what was wrong with him. The next morning the second respondent had himself tied the deceased's hands behind his back and sent him to Cape Town, instead of to the field-cornet. Moreover he sent the slave with a 'person of colour', and gave directions in such a manner that the slaves did not venture to disobey him when the deceased repeatedly asked them to untie him.

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197. GH 47/2/5. The volume lacks pagination.

Alexander concluded that the conduct of the respondents had been 'most highly reprehensible', and he was of the opinion that their actions had accelerated the death of the deceased. It would appear, therefore, that Alexander was satisfied that the respondents were guilty of culpable homicide. However, notwithstanding his finding that their conduct had been 'highly reprehensible', he was only prepared to recommend that the decision of the Court of Justice as to costs against the landdrost should be reversed and that the costs should be awarded to him as a punishment against the the respondents.

The assessor, George Kekewich, was of the opinion that the landdrost had acted in strict conformity with his public duty as a magistrate in instituting a prosecution against the respondents, 'who certainly deviated from the established and well known laws of the colony in not sending the deceased slave either to Cape Town, or to the nearest field-cornet'. He accordingly found that the respondents were in fact guilty of culpable homicide. He pointed out that, 'although the evidence did not demonstrate any wilful and malicious intention on the part of the respondents of being instrumental in causing the premature death of the slave Patientie', it was sufficiently strong to show that the respondents were guilty of gross negligence, accompanied by cruelty and ill-treatment. However, notwithstanding this finding, he was only prepared to recommend that the sentence of the Court of Justice should be reversed, and that the respondents be condemned to pay 'all the costs incurred throughout the whole of the proceedings'.

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The advice was accepted by the Governor and on 27 June 1812 the Court of Appeals reversed the sentence of the Court of Justice and awarded costs to the appellant.

This case demonstrates, on the one hand, that there was a certain amount of sophistication in the arguments of counsel at the time, but also that, on the other hand, the response of the courts could be somewhat arbitrary.

The case of *The Fiscal v Theron* (1812) represents a trial which was conducted under the Ordinance of 1570, in which the accused confessed to the charge.<sup>198</sup> It is interesting because it shows that quite detailed distinctions in the works of the institutional writers were sometimes taken account of. The prosecution was conducted before the Court of Justice by the fiscal, J.A. Truter. The accused was charged with the crime of having 'atrociously injured' the deputy fiscal, D.F. Berrangé, in the exercise of his duty. In his claim and demand the fiscal stated that the accused's son had been sentenced to fourteen days' imprisonment on bread and water for ill-treating a child. When the messenger of the court arrived at the house of the accused to complete execution of the sentence by 'summation and renovation', the accused refused to deliver the message to his son. He subsequently wrote a letter to the deputy fiscal in which he accused him of having

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198. GH 47/2/5. (The volume lacks pagination.)

acted 'openly and decidedly partial in his capacity'.<sup>199</sup> The fiscal viewed this to be a serious offence and he brought it to the notice of the court on 19 September 1811 with the intention of proceeding against the accused. A summons was served on the accused to appear before the court on 23 September 1811, and he was condemned by interlocutory resolution to answer the articles exhibited by the fiscal before a committee consisting of commissioners of the Court of Justice. At his appearance the accused admitted that he had written the letter to the deputy fiscal and that he had signed it. He also admitted that the letter was offensive to the deputy fiscal and that he was at fault. The fiscal pointed out that the accused had '*in Judicio* unequivocally confessed' that he wrote and signed the letter. He drew attention to the distinction between 'atrocious' and 'simple' injury, and argued that an injury done to a magistrate constituted an atrocious injury.<sup>200</sup> He claimed that the act was aggravated because it was committed on the authority of the fiscal himself, 'without the deputy fiscal having any motive than what directly related to his duty'. He stated that the accused had failed to place any evidence before the commissioners which tended to demonstrate partiality on the part of the deputy fiscal. The fiscal pointed out that he was unable to advance any grounds in mitigation on behalf of the accused, because the 'road of justice was open to the accused's son' and the prosecutor

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199. The complaint was founded on the following words : 'That it is my misfortune to answer as a father in this case for my innocent son and for want of means cannot release him from the consequences of that sentence, so that I must sink under the partial persecution of Mr. Berrangé on every occasion as well against myself as against those in whom I am interested'.

200. In support of this claim, the fiscal cited D. 47.4.I.6; and De Criminibus, by A. Matthaeus.

would have given him access to *Pro Deo* counsel if he or his son had requested it. Furthermore, the accused had not shown any remorse to the commissioners when he was summoned before them in order to answer the interrogatories.

He pointed out that the punishment was discretionary; and he referred to Voet, Matthaeus and other Dutch lawyers on the chapter dealing with Injuries. He stated that the circumstances surrounding the case were clear and that the accused had to be deterred from conducting himself in an offensive manner towards his superiors. He accordingly demanded that the accused be sentenced to three months' imprisonment and that he be condemned in costs.

On 2 April 1812 the Court of Justice upheld the claim and demand, and sentenced the accused as demanded. The accused lodged an appeal against the sentence which was admitted notwithstanding the fact that the conviction was based on a confession.<sup>201</sup> However the appeal was subsequently abandoned.

The case of *Fiscal v Jacob van Reenen* (1812) represents a trial which was conducted under the Ordinance of 1570 by way of the ordinary process.<sup>202</sup> The prosecution was conducted before the Court of Justice by the fiscal, Daniel Denyssen, and the defence was conducted by

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201. See the opinion of the assessor, George Kekewich, dated 15 May 1812; and the undated opinion of the assessor, Henry Alexander. GH 47/2/5.

202. The arguments were printed in the Records of The Cape Colony, Volume 10, at p. 10-41.

Advocate G. Buyskes. The proceedings by way of the ordinary process resembled a civil trial, and the following analysis will be restricted to the closing arguments of the advocates. These arguments will, however, be described in some detail, because they reveal so much about the conditions of slaves at the time and the laws' attitude towards these conditions.

#### The Fiscal's Argument

The accused was charged with the gross ill-treatment of his slave Adam from Mocambique, and his slave August from Mocambique who subsequently died. In his argument in support of the claim and demand, the fiscal stated that the evidence was based on the inquest conducted on the body of the deceased slave August, the result of the examination of the slave Adam, the report of Doctor Liesching, the examination of the slaves and the overseer who were present when the deceased was at the place of the accused, and the confession of the accused. In the first instance he dealt with an objection to the evidence of the slaves and of the overseer which had been raised by Advocate Buyskes, and stated that he was prepared to acknowledge that the evidence of slaves against their masters was objectionable. He agreed that the Roman Law even forbade the hearing of slaves for or against their masters, but stated that : 203

'The examination of slaves in cases respecting their masters, to which they have been eye witnesses, has always been a customary means here to discover the truth.'

He argued that answers given separately by more than one slave, compared together, and with the known and proved circumstances of the case could be used to elucidate any obscurity, and without in itself having the force of credible evidence, could yield proofs of the truth which could not be weakened by means of reproach or entirely rejected. He pointed out that the law prescribed that a judge had to decide according to his conscience as to the nature and credibility of the witnesses, 'without being tied down to any fixed rule'.<sup>204</sup> He argued that the custom which had been adopted at the Cape for the examination of slaves on accusations brought against their masters was not forbidden by the Roman Law, especially in those cases in which it was not possible to obtain other proof.<sup>205</sup>

He pointed out that the evidence of the accused's slaves was for the most part confirmed by the evidence of the overseer and by the confession of the accused. Furthermore, where the evidence of the slaves 'tottered', it was not used to support the charge against the accused. He explained that in considering the evidence, he did not appeal to the evidence of a single witness, but considered the concurring evidence of the majority of the slaves, especially when it was confirmed by the overseer and the accused's confession. With regard to the objection raised against the evidence of the overseer,

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204. 'Lex 3.2D, *de testibus*'. [The citation cannot be verified and it is assumed that there was an error in transcription.]

205. He referred to J.S. Boehmer, Observationes selectae ad B. Carpzovii Practica nova rerum criminalium, 4.3.114.37. (This aspect of the law at the Cape is particularly interesting : In America the right of a slave to testify in a court of law was never recognised.)

he pointed out that the evidence of a servant on behalf of his master could be validly objected to because he was dependent on his master,<sup>206</sup> but not when the servant was forced to give evidence by the judicial authorities. He pointed out that the evidence of the overseer tended to incriminate himself, which added weight to the argument that it was truthful.<sup>207</sup>

He then drew attention to the inquest and stated that it should not be considered in isolation, but together with the other evidence. He pointed out that the slave August had been confined in irons after running away. He was locked up nightly in a kitchen with both hands secured to one leg and had to work every day. The accused had ill-treated the slave in this manner without having obtained the necessary permission from the authorities. These facts were acknowledged by the accused and Denysen argued that it proved the 'natural inclination of the prisoner to cruelty and ill usage'.<sup>208</sup> Furthermore, the treatment meted out to the slave not only deprived him of his nightly rest, but also 'impeded the circulation of his blood and weakened his physical state'. Denysen pointed out that, notwithstanding the weakened condition of the slave, the accused had forced him to work in the corn fields. The accused had acknowledged that the slave did his work, 'as good as his daily declining health would allow', for six or seven days. During this period he did nothing to provoke the

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206. He relied on Merula, Manier van Procederen, 4.78.4.30.

207. The overseer testified that he had 'hoisted up the slave August in the irons in which he was made fast with both his hands to one of his legs'. Records of The Cape Colony, Volume 10, p. 14.

208. Records of The Cape Colony, Volume 10, p. 15.

accused. Denyssen accordingly rejected the explanation given by the accused that the slave was obstinate and that he intended to sell him. He stated that even if the accused intended to sell the slave, he was not authorised to ill-treat him. He argued that, pending his sale, the accused could have had the slave confined in gaol with the permission of the landdrost. He also rejected the argument advanced by the accused's advocate that the gaol in Stellenbosch was too far away.

Also interesting is the detailed analysis of the medical evidence : Denyssen pointed out that the slave August, who was tortured in the above mentioned manner for six to seven days, went to look for his clothes which he had taken off. However he collapsed on the ground and was whipped by the overseer, although he had not provoked him in any way. The overseer then sent for the accused, who arrived at the scene with a sjambok in his hand. August managed to get up when he saw the accused, but he was laid down and beaten on his bare back and buttocks. The accused then sent for a horse whip and flogged August with it. August was then ordered home. However, on the way he was again laid down and beaten by the accused with the horse whip. This was confirmed by the accused in his confession. In their evidence, the overseer and the majority of slaves who were present, stated that August barely managed to walk. After August had reached the homestead, the accused caused the slave Adam, whom he had for some time locked up in irons at night without permission, to be laid down before the house and to be beaten. When Adam was examined by Dr. Leisching, 'the marks of violence were still plainly visible'.

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August was again laid down for the third time in the kitchen. He was then whipped by the accused and the Khoi Anthony on his bare back and buttocks. The slaves who were present had to turn away their heads in order to avoid being sprinkled with blood. Denysssen claimed that it was not necessary to rely solely on the accused's confession because the trial was by way of the ordinary process. He stated that the evidence of the witnesses, corroborated by the confession, and the state in which the corpse of the slave August was found, placed the matter beyond all doubt. The medical examination revealed that 'from the first joint of the neck over both the shoulders to the loins, the skin was off, as well as from the buttocks'.<sup>209</sup> The confession of the accused and that of Dr. Leisching confirmed that the injuries sustained by August were caused by the flogging. Furthermore, the flesh attached to the deceased's body had also been struck off. Denysssen accordingly dismissed the accused's evidence that only the skin had been beaten from the deceased's body. He explained that the reason why blood was not found on the clothes of the slaves who were present was most probably due to the fact that their clothes had been washed.

After August had been whipped a third time, he was taken to the pantry, where he was 'locked up in irons crooked with both hands and one leg'.<sup>210</sup> A leather thong was tied to the cross iron and placed over the beam of the ceiling. August was then hoisted up about a foot from the ground. Although the accused had denied that he had hoisted

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209. Records of The Cape Colony, Volume 10, p. 18.

210. Op. cit., p. 18.



up the slave, Denyssen argued that it had been fully proved by the claim. He referred in this respect to the evidence of the overseer, the Khoi Anthony, the slave Kleine Present, and the slave Prendito.<sup>211</sup> He also referred to the hearsay evidence of the slave Mesentie and others. August remained overnight in the above mentioned position. The next day the accused caused him to be placed in the kitchen, but August refused all sustenance and 'he appeared to be close to death'. August remained in this condition until the last evening of his life, when his wounds were washed and cleansed. The irons were then removed and he was taken to the slave house where he died. Denyssen pointed out that the accused had buried the deceased without informing the field-cornet. He stated that when the acting field-cornet came to the accused's house, the latter endeavoured to conceal the beating. When the accused eventually sent for the field-cornet because two of the slaves had absented themselves in order to lodge complaints, the field-cornet pointed out that the accused should have informed him of the events before the burial. Denyssen concluded by stating that 'the death of the slave August could not be attributed to anything else than to the consequences of ill usage inflicted on him, and the continual sufferings to which he was exposed'.<sup>212</sup> He rejected the explanation given by the accused that the slave had 'starved himself from obstinacy', although there was some evidence to this effect.<sup>213</sup> He admitted that Dr. Leishing had stated that the wounds occasioned by the irons and by the blows were not sufficient in themselves to cause the death of the slave, but stated that the doctor could only form a

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211. Records of The Cape Colony, Volume 10, p. 19.

212. Op. cit., p. 20.

213. Loc. cit.

half judgment as he knew nothing but what he perceived on inspecting the body. He argued that if the refusal by the slave to take any sustenance contributed to his death, 'it could be ascribed to nothing else than to the consequence of his ill usage'.<sup>214</sup>

Denyssen referred to the medical examination which had revealed that the 'heart purse had grown to the heart itself'.<sup>215</sup> He pointed out that Dr. Leisching had only touched on this aspect indirectly. However Dr. Biccard had stated that this could not have been the cause of the death of the slave and that it was a natural complaint of persons doing similar work to that of the slave August.

Denyssen conceded that it could not be proved that the accused was 'actuated by a premeditated will to put an end to the life of the slave August'. However, 'he did not scruple wilfully to expose him to the consequences which his excessive ill-treatment would most probably be attended with'.<sup>216</sup> Denyssen pointed out that if the accused had wilfully and premeditatedly deprived his slave of his life, then he could not escape the punishment which the laws prescribed for wilful murder, because the distinction between master and slave ceased. He referred to the Mosaic Law which had been appealed to by the accused's advocate and stated that it made no distinction in this respect between free persons and slaves. On the contrary, it stated that 'he who sheddeth the blood of another, so surely shall his blood be shed

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214. Records of The Cape Colony, Volume 10, p. 20.

215. Op. cit., p. 21.

216. Loc. cit.

also'.<sup>217</sup> He pointed out that this law was sacred among the Romans and was observed by them in more than one instance. Furthermore, their ancient cruelty respecting slaves and the arbitrary right which they formerly possessed over life and death, they learned to ameliorate from the Mosaic Law and they finally enacted that wilful murder should be punished with death. However, in the present case, Denyssen was of the opinion that there only existed an 'intention to ill treat the slave August in such manner that death might be the consequence, as was actually the case'.<sup>218</sup>

Denyssen then dealt with the punishment demanded and stated that although it was necessary to protect masters against the insolence of their slaves, it was also necessary to protect slaves from violence and wantonness. He pointed out that the Statute Laws of India specifically enforced this obligation. He referred in particular to article 14 under the title Slaves, which stated that the beating to death or otherwise killing of slaves required that the master should be punished corporally or otherwise according to the circumstances of the case. He distinguished article 14 from the wilful and premeditated murder of a slave, which could not be punished by a trivial corporal or discretionary punishment. He stated that article 14 was concerned with the punishment for excesses which were attended with the death of a slave. He pointed out that the slave August did not provoke his master after having run away the first time, but on the contrary, laboured daily in the fields notwithstanding his irons

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217. Records of The Cape Colony, Volume 10, p. 22.

218. Loc. cit.

and his 'half festered fingers'. Furthermore he was employed in the difficult work of clearing away bushes. Denyssen considered the accused's conduct to be of an aggravated nature and called for a public, 'although not painful punishment, in order as an example to deter others from exposing themselves to the consequence of similar ill usage'.<sup>219</sup> He felt that it was necessary to prevent the accused from committing similar excesses against his slaves, and he referred to his treatment of the slave Adam and to the general evidence of the other slaves. Although the accused had properly provided his slaves with clothes, food and drink, he was very severe in his punishments. He rejected the precedents concerning punishment which were cited by the accused's advocate, because the circumstances differed in each case. He stated that the necessity of maintaining discipline among the slaves in country places situated beyond the reach of the courts and magistrates did not excuse the accused's conduct, because his excessive ill-treatment was not discipline, and he was not prevented from having recourse to the magistrate of his district. Denyssen concluded his argument by stating that the accused had not founded any reasons for mitigation of the punishment, and he accordingly persisted in his claim and conclusion.

#### Argument of the Counsel for the Defence

The standard of the argument of the defence, compared with that of the fiscal, was not impressive. Advocate Buyskes commenced his argument

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219. Records of The Cape Colony, Volume 10, p. 23.

by making two general remarks which he felt the Court should consider. In the first instance he pointed out that in judging crimes, 'the will should especially be considered, and not the result, in the punishment'.<sup>220</sup> In the second instance he stated that one should never lose sight of the local and other circumstances under which the accused party laboured at the time of committing the crime. He then proceeded to argue the following points : <sup>221</sup>

- 1) That the accused had acted *in re licita*.
- 2) That he was provoked to the repeated chastisement of his slaves August and Adam by their own continued obstinate and bad conduct.
- 3) That it was not only not proved that the slave August died in consequence of the chastisement, but even the contrary, and that the correction which he received could by no means be stamped with the name of ill-treatment.
- 4) That supposing excess had been committed in the punishment, the claim could not be applied to that excess.

With regard to the first point, Buyskes argued that the accused had acted legally because a master had the indisputable right of chastising his slaves. He pointed out that from the first establishment of Roman Society, the right of life and death over a slave was acknowledged to the master. He conceded that this right was subsequently prescribed in order to prevent an improper use being made of it. However the right of chastisement was continued to the master. He referred to the *Codex 10.4.*,\* principally containing

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220. He cited Moorman, Verhandeling over de Misdaden, I.9.; and the authorities quoted therein.

221. Records of The Cape Colony, Volume 10, p. 26.

\* [Codex 10.4 does not deal with slaves.]

*Dominus*, where this right was accurately described and where the different cases were stated in which the master must be considered as having forfeited the same. He argued that it had not been proved that the accused's conduct fell within the ambit of any of those cases. He pointed out that the right to chastisement was also fully acknowledged to the master by the Statute Laws of India. He stated that the accused's right to chastise his slaves August and Adam had not been subjected to any contradiction or to the smallest doubt.

In Buyskes's opinion the sole question was whether sufficient reasons existed for the accused to make use of that right. In support of this contention, he advanced the following arguments : 222

- 1) That the slaves were obstinate and of evil dispositions.
- 2) That they were guilty of running away.
- 3) That they did not choose to work.
- 4) That they both had determined rather to die than remain in the power of the accused.
- 5) That the accused had for that reason resolved to sell them.

He argued that in order to preserve the necessary discipline and order over his slaves, the accused was obliged to chastise August and Adam. He pointed out that running away and refusal to work constituted sufficient grounds for chastising a slave, and he cited Leyser, *Meditationes ad pandectas*, in support of this statement.

Buyskes' second point was that the accused had been provoked to repeated correction of the slaves by their obstinate and stubborn

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222. Records of The Cape Colony, Volume 10, p. 28.

conduct. In support of this contention, he advanced the following arguments : <sup>223</sup>

- 1) The two slaves repeatedly ran away.
- 2) They refused to work.
- 3) They evinced indifference on being punished.
- 4) They demonstrated a resolute intention of no longer wanting to remain in the service of the accused, preferring rather to die than to live.

He argued that the accused was accordingly forced to administer repeated corrections in order to bring the slaves to a sense of their duty.

In arguing his third point, which dealt with the failure to prove that the beating had caused the death of the slave August, Buyskes referred to the *Visum Repertum* and the *Judicium Medicum* of Dr. Leisching, the *Judicium Medicum* of Dr. Prediker and Dr. Wehr, and the depositions of Dr. Prediger and Surgeon Bosenberg. He argued that the evidence did not positively prove that the slave August had died as a result of the correction inflicted on him. Furthermore, the evidence had demonstrated that the slave Adam had 'only suffered a good chastisement'.<sup>224</sup>

Buyskes pointed out that although Denyssen had acknowledged the inadmissibility of the evidence of slaves against their masters, he nonetheless argued that the evidence should be admitted on the grounds that it was an established custom in the colony and that the evidence

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223. Records of The Cape Colony, Volume 10, p. 28.

224. Op. cit., p. 29.

was consistent. Buyskes pointed out that none of the existing laws could be abolished by custom. Although he conceded that many instances of the evidence of slaves against their masters appeared in the court records, he doubted whether the judges accepted the evidence 'as deserving of all belief'.<sup>225</sup> He also disputed the contention that the evidence given by the slaves was consistent. He argued that the evidence of the overseer and the slaves which Denyssen had relied upon to prove the crime of ill-treatment should be rejected.<sup>226</sup> He referred in particular to the following arguments : <sup>227</sup>

- 1) That the overseer and the slaves had varied their depositions.
- 2) That they had an interest in accusing their master in order to be released from the laborious work of farming.
- 3) That the overseer had himself been guilty of ill-treatment and was an accomplice.<sup>228</sup>

He attacked Denyssen's reliance on the evidence of Dr. Biccard by pointing out that the doctor was not present at the inspection of the body and his *Judicium Medicum* could therefore not be equivalent to that of Dr. Leisching, who acted officially by order of the court. He argued that the opinion of Dr. Biccard was extremely vague, and that it was based on declarations supplied to him and exhibited in the case. According to Buyskes, Biccard had exceeded the bounds of his duty and had assumed to himself a right which belonged exclusively to the judges.

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225. Records of The Cape Colony, Volume 10, p. 29.

226. He supported his argument by citing Pothier, Pandectae Justinianae 22.3; and article 30 of the Law Book of Louis the Fourteenth.

227. Records of The Cape Colony, Volume 10, p. 31.

228. In support these arguments, Buyskes cited Van Leeuwen, Rooms-Hollandts-Recht, 5.20.



Buyskes admitted that the accused had confined the slaves August and Adam in irons. However he argued that this was done with the prior knowledge of the magistrate. He claimed that the accused was obliged to confine the slaves in order to prevent them from running away. Furthermore, he stated that the accused had acted legally and in accordance with the general custom that was observed in the colony. He explained the accused's admission to having whipped the slave August on three occasions by stating that he did so in order to get the slave to walk. He also argued that the total number of strokes administered did not exceed forty. He pointed out that the accused had denied that he gave orders to have the slave hoisted up in the pantry, and he laid the blame on the overseer. He rejected Denyssen's argument that the alleged ill-treatment was the cause of the death of the slave August, and submitted that : 229

- a) The accused had a right to chastise his slave because he had repeatedly run away, refused to work, and had acted insolently.
- b) The accused punished the slave because he was provoked and the punishment was instigated by the overseer.
- c) The accused acted in accordance with the general custom that was followed in the colony.
- d) The *Visum Repertum* and the *Judicium Medicum* did not reveal that ill-treatment had taken place.
- e) The death of the slave had occurred as a result of lack of food and possibly because the 'heart purse adhered to the heart'.
- f) The deceased committed suicide by refusing to eat and drink.

Buyskes stated that the Statute Laws of India applied only to those cases in which it was conclusively proved that death was caused as a

result of excessive punishment. He argued that in the present case it was not proved that August had died as a result of the chastisement which he had received. With regard to the sentence which the fiscal had demanded, he pointed out that the law provided for the forfeiture of a slave who had been ill-treated. However Denyssen had demanded a 'dishonouring, and for a whole innocent family humiliating punishment'.<sup>230</sup> Buyskes argued that before sentencing a person to public punishment, it was necessary to show that the person had 'committed a scandalous act, and thereby evinced such a depravity of mind that it would not be right that he should publicly appear any more, but on the contrary be left by his friends and relations to wonder about unknown, and carry with him his depravity and shame in a foreign country'.<sup>231</sup> He referred to the C.9.16 (*ad Legem Corneliam desicariis*), which stated that 'he whose life being endangered and deprives his assaulter of his life, is acquitted of all defaming punishment'.<sup>232</sup> He also referred to D.9.2 (*ad Legem Aquiliam*), which stated that 'he who wounds a slave, and the slave dies through negligence or neglect, is alone responsible for the wounding and not for the consequent death'.<sup>233</sup> He argued that the punishment demanded by Denyssen was contrary to the local laws and that it would 'strike as well at the innocent as the guilty'.<sup>234</sup> He submitted that even if the court found that the accused had 'exceeded the measure of correction', the punishment demanded was excessive. In support of

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230. Records of The Cape Colony, Volume 10, p. 37.

231. In support of this contention, Buyskes cited 'an old author of the Public Law in the Lyseon at Paris, de la croix, Chapter 5, respecting dishonouring punishments'.

232. Records of The Cape Colony, Volume 10, p. 38.

233. Loc. cit.

234. Loc. cit.

this contention he referred to a number of cases. For example, in the case of *The Landdrost of Tulbagh v The Widow du Toit*, who was charged with ill-treating three of her slaves and the slave girl Tukasta who died and was privately buried, the prosecutor had claimed a sentence of imprisonment for six months and that all of the accused's slaves be sold for her account. However the sentence imposed by the court was a fine of five hundred rixdollars and the sale of the slaves. In the case of *The Landdrost of Stellenbosch v Jacob Mosterd*, the accused was charged with the ill-treatment of two of his slaves who subsequently died. The prosecutor had demanded a penalty of *arbitrium judicis* and the sale of all of the accused's slaves. The court imposed a fine of three hundred rixdollars and the sale of five of the slaves under the usual conditions. In the case of *The Landdrost of Stellenbosch v Isaac Nieuwhout*, who was charged with the ill-treatment of a slave who subsequently died, the court rejected the prosecutor's claim. The alleged ill-treatment was based on a claim that the accused had administered a punishment of forty lashes because the slave had refused to work. In the case of the *Fiscal v Philip Wagener*, who was charged with the excessive ill-treatment of his slaves, the prosecutor demanded a sentence of banishment for five years and the sale of all the accused's slaves. The court imposed a sentence of two months' imprisonment and ordered the sale of the slaves who were ill-treated. In the case of the *Fiscal v Steetler*, who was charged with the ill-treatment of his slave Abraham who died as a result, the court imposed a sentence of confinement and ordered that five of the accused's slaves be sold.

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On the whole the arguments of the defence counsel can be said to be typical of those one finds when an advocate attempts to make the best of a weak case.

On 17 September 1812 the Court of Justice upheld the fiscal's claim. The accused was sentenced to three months' imprisonment and the Court ordered the judicial sale of ten of his slaves.<sup>235</sup> In a letter to the Secretary of State for Colonies, Governor Cradock expressed his feelings about the case in the following terms : <sup>236</sup>

'A more deliberate cold-blooded scene of persecution and cruelty, even unto death, was never exhibited.'

This case illustrates some important social facts surrounding the administration of criminal justice at the Cape. The facts give a glimpse into the brutal life that was often the lot of slaves and the arguments of counsel, as well as the response of the court in handing down a relatively light sentence. The case also provides an insight into the prejudices that were operative in the society of that time.

Next we turn to the sentence in the case of *The Landdrost of George v Cornelis van Tonderen* (1813), which commenced in the circuit court, and which is included in order to demonstrate that some of the sentences passed by the Court of Justice contain more than the bald acceptance or rejection of the prosecutor's claim and demand. <sup>237</sup>

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235. Records of The Cape Colony, Volume 10, p. 41.

236. Letter from Sir John Cradock to Lord Bathurst dated 15 April 1814. Records of The Cape Colony, Volume 10, p.2.

237. Records of The Cape Colony, Volume 10, p. 42.

'Whereas Cornelis van Tonderen, twenty-seven years of age, born at the Congo, now detained in the public prison and defendant in an ordinary process, has voluntarily confessed, and it having also appeared to the Court of Justice :

That he the prisoner being married with Cornelia van Emmenes, and residing at Elephants River in the district of George, having on a certain Sunday in the month of November 1810 been at work with his father on a ditch, his said wife went to the fields with the sheep and goats, and the prisoner having gone the same afternoon to the cattle, he met her and desired her to turn them, which however she refused to do, and at the same time threw a stone at his legs; in consequence of which the prisoner being angry, he took up a stick of thorn wood as thick as his wrist, and gave his said wife a blow behind the neck with it, through which she fell to the ground and died, without having spoken anything more; whereupon the prisoner laid her leaning backwards under a bush in the shade, with her hands on her breast, and her feet stretched out, when he perceived that a small quantity of blood issued from her nose.

That the prisoner having thereupon gone home, did not however relate anything of what had happened, but on the contrary behaving as if he missed his wife, went in the evening to look for her, but returning without her, he again went out the following morning with his father Andries van Tonderen, and after a short search found her lying under a thorn bush in the same position as he had placed her the day before, on which the prisoner's father went and fetched a waggon with which he brought the corpse to his dwelling, and the third day afterwards buried the same, without having given any information of the sudden death of the said woman to the Field Cornet, or having the body inspected as it ought to have been.

That the old Field Cornet Adam Raubenheimer, who in the absence of Matthys Heyns, Ockert's son, acted for him, being casually informed on the 4th or 5th December that the prisoner's wife lay dead in the fields, wrote to the prisoner to come and answer for his not having reported the same, with which requisition however the prisoner did not comply, but some days afterwards requested the old Field Cornet to come and take an Inventory of the Effects of his deceased wife, which the Field Cornet did not do, but on the contrary repeated his first requisition, whereupon the prisoner having repaired thither fourteen days afterwards with his father, he in excuse for his non compliance pleaded ignorance.

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That the Field Cornet M. Heyns above mentioned, having returned home on the 24th December following, and being informed by Adam Raubenheimer of the circumstances, after making some previous enquiry went duly assisted to the place where the body was said to have been found, where he discovered a piece of thorn wood nearly rotten a foot long, and half an arm thick, in the middle of which stick there was a bloody place the size of a silver ducat, while at a distance of about ten paces a large spot of blood was to be seen on a stone, after which, the circumstance being brought to the knowledge of the Landdrost of Swellendam under whose jurisdiction the said district was at the time, he caused the corpse to be dug up, and a surgical inquest to be taken on the same, when on the soft parts of the body, which had begun to putrefy, nothing could be discovered, but nevertheless it was found that the vertebrae of the neck were dislocated in such manner that the first and second joints projected out before, through the soft parts, from which surgical inquest it was deduced that such must have been occasioned by a blow on the neck; the consequence of which investigation was that the prisoner and defendant, after being apprehended by judicial decree, was prosecuted first before the Commission for administering Justice, at the Session held in the year 1811 at George, and thereupon (this case falling under the tenor of the Proclamation of the 16th May 1811, Art. 2 L. D) being brought to the prison here, was admitted to an ample and ordinary process on condition of his making his defence *ex carcere*.

And as it therefore appears that the prisoner and defendant in this case had been guilty of killing his wife, without being able to allege anything in his defence than that it was an unfortunate blow without any intention to kill, which crime however cannot be tolerated in a country where Justice prevails, but on the contrary should be rigorously punished according to circumstances, as an example to deter others from doing the like!

So it is that the Court having read and examined the prisoner and defendant's confession and further proofs inserted in the Records held by the Commission of Circuit at the Session at George in the year 1811, as also the papers and documents reciprocally exhibited; and having taken everything into consideration which deserved attention or could move the court, administering Justice in the name and on behalf of His Britannic Majesty, condemns Cornelis van Tonderen, the prisoner and defendant in this case, as he is hereby condemned, to be brought to a public place at the Drostdy of George adapted for the execution of criminal sentences, and there being delivered over to the Executioner, to kneel down before a heap of Sand, and his eyes being blindfolded, to be punished with a sword over

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his head, and thereupon banished for life out of this Colony and the dependencies thereof, never more to return on pain of severer punishment, and to be placed at Robben Island till an opportunity may offer for his transportation; rejecting the further and other claim and conclusion made by the R.O. Prosecutor against the prisoner and defendant, with condemnation of the prisoner in all the costs and expenses of the prosecution, to be taxed and moderated by the Court.'

In a letter to the Secretary of State for Colonies, Governor Cradock criticized the sentence and was of the opinion that the court was influenced, 'however unperceived by themselves', by the reluctance to condemn a white person to death.<sup>238</sup> Although he conceded that it could be 'faintly' argued that the accused did not actually intend to kill his wife, he considered the act to be of a most violent nature and her death was the consequence. He pointed out that the concealment of death and the other circumstances (the couple had lived on bad terms) 'strongly added to the imputed crime'.<sup>239</sup> In Cradock's opinion, 'in every British Court of judicature death would have been awarded, and the mercy of the executive power left alone to operate, if sufficient reason had appeared'.<sup>240</sup>

The case of the *Fiscal v Adriaan Vermaak* (1813) represents a rehearing from a sentence pronounced by the commissioners of the Court of Justice.<sup>241</sup> The accused was charged with ill-treating his slave and it further highlights the issues raised in the other cases discussed so far. He was sentenced to pay a fine of fifty rixdollars for the relief

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238. Letter from Sir John Cradock to Lord Bathurst dated 15 April 1814. Records of The Cape Colony, Volume 10, p. 3.

239. Loc. cit.

240. Loc. cit.

241. GH 47/2/7; and *supra* 4.1.5.1.

of the poor and was cautioned to exercise restraint when punishing his slaves. In his claim and demand on the rehearing, the fiscal stated that on 8 March 1813 a complaint of ill-treatment was inquired into before the commissioners of the Court of Justice. The complaint was brought by the slave Jack of Mocambique against his master Adriaan Vermaak. The evidence revealed that the accused had thrown a handspike at Jack while he was working in the wine store. The spike hit Jack on his right arm and caused him to climb down from the wine barrels. The accused then proceeded to flog Jack with a 'strop' or thick rope. He then ordered the slaves Lendor and Samson to flog Jack with the same rope. The medical examination revealed : 242

- 1) A large contusion on and under the shoulder blade along the back accompanied with much swelling.
- 2) A second but smaller contusion on the left shoulder blade.
- 3) A contusion on the left shoulder and upper part of the arm which was swollen.
- 4) Another contusion on the right shoulder and upper part of the arm.

The fiscal claimed that the slave was in such a dangerous condition that it was necessary to have him bled and to use 'inward and outward remedies'. The fiscal pointed out that the contusions were clearly visible to the commissioners and that Jack was unable to extend his arms. The accused acknowledged that Jack's statement of complaint was truthful, but stated that he was beaten because he refused to work. However the fiscal claimed that the actions of the accused amounted to gross ill-treatment and he demanded that the slave should be judicially sold as a punishment. The fiscal also demanded that the



accused be made to pay a fine of one hundred rixdollars for the relief of the poor. He pointed out that the accused had failed to advance any evidence in mitigation of his conduct and had merely denied that he had ill-treated Jack. However the commissioners rejected the demand and only fined the accused fifty rixdollars. The accused was also cautioned to be more careful in punishing his slaves. The fiscal then brought the case before the full bench of the Court of Justice for a rehearing. He repeated the claim and stressed the excessive number of stokes which had been administered to Jack. He argued that the sentence passed on the accused was far too lenient and he demanded that the fine be increased to one hundred rixdollars. He also repeated his demand that the slave be judicially sold. He cited the Statutes of India, which stated that the ill-treatment of a slave was punished with confiscation of the slave.<sup>243</sup> He also cited the Roman Law, which stated that the ill-treated slave had to be judicially sold for the benefit of his master.<sup>244</sup> He claimed that according to these laws, the punishment was not only restricted to the sale of the ill-treated slave, but could be aggravated by the nature of the ill-treatment.<sup>245</sup>

On 17 June 1813 the Court of Justice rejected the fiscal's claim and demand. The Court further ordered that the accused was only obliged to pay the expenses incurred as a result of the imprisonment of Jack up to the date of the rehearing.<sup>246</sup> On 26 June 1813 the fiscal noted

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243. Article 13 under the Title Slaves.

244. The Prescript of the Emperor Antonius Pius, quoted by Ulpianus [D.I.6.2.]

245. He cited an example of a condemnation of banishment for five years, which appeared in the above mentioned Prescript.

246. GH 47/2/7, p. 124.

an appeal against the sentence to the Court of Criminal Appeals.

In his argument before the Court of Criminal Appeals the fiscal referred to the Statutes of India in order to justify the punishment claimed.<sup>247</sup> He also pointed out that the respondent had failed to advance any reasons why the punishment of forfeiture of the ill-treated slave should have been mitigated. He also stressed the aggravated nature of the ill-treatment and stated that there was ample precedent to support his demand.

In his reply Advocate Burmania, who appeared for the the respondent, denied that the slave had been ill-treated. He argued that the slave had received no more than thirty lashes. He also alleged that the surgeon, Dr. Wehr, was biased in view of the fact that he was in the employ of the fiscal. He argued that Dr. Wehr's description of the contusions on the body of the slave differed from the examination conducted by the commissioners. He also argued that the fiscal had failed to cite any cases in support of his claim that the commissioners had punished similar cases with forfeiture of the slaves who had been ill-treated. He cited the case of the *Fiscal v Jacob van Reenen* (1812), which was concerned with the ill-treatment of a slave who subsequently died.<sup>248</sup> He incorrectly pointed out that in this case the claim and demand of the fiscal had not been adjudged and that the fiscal did not enter an appeal. He argued that the present case was 'triffling' in comparison to that of Van Reenen.

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247. Article 13 under the title Slaves.

248. See *supra* p. 486 *et seq.*

In his rejoinder the fiscal argued that although he had been accused of partiality by the respondent's counsel, he had acted solely in the interest of the laws and in order to set a precedent. He cited the Statutes of India, which stated that : 249

'Although Masters are allowed when any of their slaves may commit a fault to correct them with domestic punishment, still however they may not put them in irons still less torture or otherwise ill use them, unless with the consent of the Court, or of the Officer of Justice in whose jurisdiction such master may reside, on pain of forfeiting the same.'

He pointed out that the above mentioned article was based on the Roman Law, which stated that ill-treated slaves had to be judicially sold for the account of their masters, under the special condition of never again coming under their power or that of any of their relations. He cited the case of Hendrik Vos, who was condemned by the commissioners of the Court of Justice in February to the judicial sale of a slave he had ill-treated. In this case Vos caused an iron ring to be put on the slave without having previously obtained the necessary permission. He also cited the case of Jan de La Harp, who was condemned by the commissioners in February to sell his female slave, because he had been found guilty of excess in the domestic correction of the slave.

He also pointed out that it was Dr. Biccard, and not Dr. Wehr, who was the surgeon to the prison. Dr. Wehr had taken on Dr. Biccard's duties without receiving any emolument because of the latter's ill-health. He argued that the nature of the contusions clearly demonstrated that the slave had received more than thirty lashes and had accordingly been

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249. Article 13 under the title Slaves.

ill-treated.

However the assessor, George Kekewich, was of the opinion that the slave had received no more than the ordinary correction which owners of slaves were entitled to inflict.<sup>250</sup> He accordingly recommended that the appeal should be dismissed. The assessor, Henry Alexander, disagreed with his colleague and stated that in his opinion, if the slave had died, the respondent would very likely have received the death sentence. He accordingly recommended that the appeal should be upheld and that the slave should be judicially sold.<sup>251</sup> On 29 September 1813 the Governor rejected Kekewich's opinion and upheld the appeal. He ordered that the slave be judicially sold for the account of the respondent, never again to come into his or his relatives' possession. Although he ordered the respondent to pay the costs of the appeal, he refused to increase the fine to one hundred rixdollars.

The case of *The Landdrost of Tulbagh v Barend Visagie and Others* (1814) represents a trial which was conducted under the Ordinance of 1570 by way of the extraordinary process.<sup>252</sup> It is particularly interesting in that it reveals something of the judicial attitudes of the time in regard to crimes against people of colour (other than slaves). The prosecution was conducted by Advocate J.P. de Wet on behalf of the landdrost. The accused, Barend Visagie, Isaac Fredrik Visagie, and the Khoi Bastiaan, were charged with killing two Khoi.

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250. GH 54/1, p. 168.

251. GH 54/1, p. 169.

252. GH 47/2/9; and GH 47/2/10; and *supra* 4.1.5.1.

In his claim and demand the prosecutor stated that in February 1814 the field-cornet, J.R. van der Merwe, reported to the landdrost that in July 1813 two Khoi were killed by the first and second accused because they had stolen a head of cattle. A female Khoi named Caatje had been seized by the accused, and a Khoi named Michel had escaped. The landdrost ordered the field-cornet to send the first two accused and the female Khoi Caatje to his drostdy. The preparatory information concerning the investigation was transmitted to the official agent in Cape Town and the three accused were confined at the drostdy. After considering the information, the prosecutor concluded that the first two accused were guilty of murder in shooting the two Khoi, and that the third accused was an accomplice. He accordingly applied to the Court of Justice for an order converting the civil imprisonment of the first two accused into a criminal imprisonment. He also requested the court to give directions as to whether the trial should be delayed until the arrival of the circuit court, or whether the accused should be brought to Cape Town for trial before the Court of Justice. The Court decided to try the case in Cape Town in order to avoid delay. The three accused were conveyed to the public prison in Cape Town, and they were 'successfully' interrogated in the presence of the commissioners of the Court of Justice. Their statements were compared with those of the witnesses, and when all the depositions were brought *in forma probanti* in the presence of the accused, the examination of the *ex officio* prosecutor and the commission was declared to be closed.

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The prosecutor claimed that on 10 July 1813 the first accused was informed by his son, the second accused, that he was missing a heifer from the herd, and that he had found footprints leading towards a cleft. The two accused, accompanied by the third accused, the Khoi Roman, and the Khoi Willem, all of whom were armed, set off in pursuit of the 'robbers'. After entering the cleft early the next morning, they discovered two unarmed Khoi, one of whom was a female. The Khoi separated in order to escape. The first accused, who was approximately fifty paces away from one of them, called out to him to stand. He immediately obeyed and begged the accused to spare his life. However the first accused refused to listen and discharged his musket at the Khoi, who fell down dead on the spot. The second and third accused, and the Khoi Roman, discharged their guns at a female Khoi, who ran away. However they noticed spots of blood on the ground and it appeared that she was wounded. They then proceeded to search for the other Khoi, and discovered a female who was in a hole underneath a stone. They called for her to come out, but received no answer. They then discharged their guns into the hole, but the gun of the third accused failed to fire. They continued the search and managed to capture a Khoi woman. When they returned to the hole, they ordered their captive to bring out the Khoi, who was found to be dead. They observed that two of the musket balls had penetrated her body under her breasts. The body of the male Khoi, who had been shot by the first accused, had a bullet hole in the shoulder blade. They retrieved the stolen meat and, together with the female Khoi Caatje, returned home without burying the bodies.

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Although the first accused wrote to the field-cornet about the incident three days later, he failed to report the matter to the landdrost. It was accordingly impossible for the prosecutor to lay evidence before the court as to the nature of the wounds which had been inflicted on the deceased persons. In March 1814 the remains of the two Khoi were found by the field-cornet in the same spot. However the prosecutor claimed that the want of a legal proof as to the *corpus delicti* was supplied by the testimony of the female Khoi Caatje, the Khoi Willem, the confessions of the three accused, and by the interrogatories. The prosecutor concluded by stating that the two Khoi had been killed by the first and second accused, and the Khoi Roman, who had absconded.

The Prosecutor referred to the fact that the accused had gone out fully armed to search for the stolen heifer. On meeting the 'robbers', they found that the latter were unarmed and offered no resistance. However the accused had seen fit to kill two of them and attempted to kill a third who had escaped. According to the prosecutor, the accused had killed the two Khoi, 'merely for having been guilty of stealing a heifer and for not having stood still, when called to, or for having refused to quit their asylum when called'.<sup>253</sup> With regard to the first accused, the prosecutor stated that : <sup>254</sup>

- 1) He had tried to place the crime in a favourable light by stating that it was still dark when they saw the Khoi coming out of their refuge.
- 2) He had only observed that the Khoi were unarmed after they were killed.

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253. GH 47/2/9, p. 128.

254. Op. cit., p. 129.

3) He had fired at the Khoi when he was making his escape.

However the prosecutor pointed out that the first two points of the first accused's defence were contradicted by the statements of the second and third accused, and the deposition of the Khoi Willem. He argued that the fact that the first accused was only thirty to forty paces distant from the Khoi before he shot him made his defence highly improbable. Furthermore, the first accused had contradicted these points in the letter which he wrote to the field-cornet. The evidence that the Khoi was shot in his right shoulder indicated that it was more than probable that the Khoi was not running away when the first accused shot him. He also referred to the evidence of the female Khoi Caatje, who stated that the deceased had stood still and had begged for his life. In addition, the third accused had stated that he heard the deceased speak before he was shot. The prosecutor concluded that the evidence failed to exclude premeditation and intention, and that on the contrary, it clearly demonstrated an intention to kill.

With regard to the second accused, the prosecutor pointed out that in the course of his first examination, he had stated that they only saw a hat in the hole. They called 'come out' without receiving an answer. However the second accused admitted that on seeing the hat, he thought that a Khoi must be in the hole and that this was the cause of his crying out so many times for the person to come out. The prosecutor concluded that : <sup>255</sup>

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255. GH 47/2/9, p. 132.



'It was evident that he was well convinced in his own mind on discharging his gun loaded with ball in the hole that a male or female Hottentot must have been in the same, for, otherwise there was no necessity for asking an answer.'

The prosecutor claimed that by repeatedly loading his gun and discharging it in the hole, the second accused had 'plainly manifested an *animus vicidendi*'.<sup>256</sup> He concluded by claiming that the second accused had acted with premeditation and deliberately.

With regard to the third accused, the prosecutor pointed out that he had confessed to having fired a ball at the Khoi who had run away and that his gun had refused to discharge a ball when he fired into the hole. However the prosecutor argued that he had the same intention as the other two accused.

He claimed that the first and second accused deliberately intended to kill the two Khoi and that they had therefore subjected themselves to the death penalty.<sup>257</sup> He referred in particular to Van Hogendorp's translation of the commentary of Carpzovius, which stated : <sup>258</sup>

'That it is uncontestable that he who occasions a man's death by discharging his gun at him, has without all contradiction committed a malicious murder, and deserved the punishment of death.'

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256. Op. cit., p. 135.

257. He cited Moorman, Verhandeling over de misdaden en der selver straffen, 2.I.II; Matthaeus, De Criminibus, 48.5.I; and Carpzovius, Verhandeling der lijfsraffelijke misdaden en haare berechtinge, translated by D. van Hogendorp.

258. Van Hogendorp's translation of Carpzovius, op. cit., 3.4.

He also pointed out that such a person may not have had a deliberate intention to kill in order to subject himself to the ordinary punishment of death.<sup>259</sup> With regard to the third accused, he pointed out that although it could not be conclusively proved that he had actually wounded the male Khoi, his second attempt to fire into the hole demonstrated a *suspiciis doli*, which placed him within the ambit of the *lex Cornelia de Siccariis* (D.48.8; C.9.16). The prosecutor argued that it was not the act of homicide itself which deserved the punishment of death, 'but the malicious premeditation and intention to kill another'.<sup>260</sup> Accordingly the intention, and not the result, had to be taken into consideration. He argued that the actions of the third accused, by repeatedly making use of a dangerous instrument with the intention to kill, constituted a *deliberatus animus occidendi*. He concluded by claiming that the third accused had subjected himself to the death sentence.

The prosecutor pointed out that it was his duty to place all the circumstances which were favourable to the accused before the court. However he apologised because he was unable to offer any grounds in mitigation of the punishment with regard to the first and second accused. With regard to the third accused, the prosecutor pointed out that he was in a position of dependence and was obliged to obey the orders given by the first accused. Furthermore, the orders were 'actually accompanied by the example of his master himself'.<sup>261</sup> Although the third accused had to answer for his actions, the

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259. Op. cit., 3.15.

260. GH 47/2/9, p. 141.

261. GH 47/2/9, p. 143.

prosecutor suggested that these factors might tend to mitigate his punishment.

The prosecutor concluded by demanding the death sentence for all three accused, 'or such other punishment as to this court shall seem meet to inflict upon them agreeably to the merits of the case and to condemn the prisoners moreover to pay the costs'.<sup>262</sup>

On 1 September 1814 the Court of Justice upheld the claim and demand, and passed the following sentence : <sup>263</sup>

'Barend Visage and Isaac Visage to be conveyed to the usual place of execution of criminal sentences, and being their delivered to the executioner to be punished by the halter on the neck at the gallows till they be dead; doth further condemn the prisoner Bastiaan to be also conveyed to the usual place of execution of criminal sentences, and there being delivered to the executioner and tied at a post to be severely scourged with rods on his naked back, and further to be put into irons and be confined at Robben Island or elsewhere employed at the public works without wages, three first ensuing and consecutive years. Doth condemn the prisoners in the costs and expenses of the justice and the costs of the suit.'

On 5 September 1814 Advocate Buyskes noted an appeal against the sentence to the Court of Criminal Appeals.<sup>264</sup> The assessor, Henry Alexander, was of the opinion that the first appellant's conviction should be reversed.<sup>265</sup> He stated that both the English and the Civil Law provided that if a felon could not be apprehended by means other

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262. Op. cit., p. 144.

263. GH 47/2/10, p. 4.

264. The heads of argument can be consulted in Volume GH 47/2/9, at p. 1-97.

265. GH 54/1, p. 206.

than death, his death in the effort to apprehend him was considered to be 'justifiable homicide'.<sup>266</sup> With regard to the second and third appellants, Alexander recommended that their sentences should be confirmed because the deceased woman had been secured in a hole and was 'amenable to justice'. He pointed out that she could have been forced out of the hole by the use of smoke. He stated that no one had the right to put the most atrocious offender to death without positive authority if it was possible to render him amenable to justice by other means.<sup>267</sup> The assessor, George Kekewich, was of the opinion that the evidence clearly proved an 'atrocious and deliberate act of murder'.<sup>268</sup> He considered the death sentences to be appropriate and stated that they would serve as an example, 'and save the lives of many unfortunate beings now wantonly sacrificed to the passions of their arbitrary and capricious masters'.<sup>269</sup> However on 18 April 1815 the Governor reversed the convictions and amended the sentences. The first and second appellants were declared to be guilty of culpable homicide and the third accused was acquitted. The first appellant was sentenced to be confined in irons and to labour on the public works for life. The second appellant was sentenced to be confined in irons and to labour on the public works for ten years.

The case of *The Landdrost of Uitenhage v Hendrik Fredrik Prinsloo and Others* ((1815) has been included in order to represent a trial which

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266. GH. 54/1, p. 205.

267. Op. cit., p. 206.

268. Op. cit., p. 212.

269. Loc. cit.

was heard by the circuit court.<sup>270</sup> In view of the lengthy trial record, it will only be possible to analyse the nature of the crime alleged against the accused and the authorities referred to by the prosecutor in his claim and demand.<sup>271</sup> The prosecutor was of the opinion that the crimes in this case constituted 'high treason, violation of the supreme authority, rebellion, open violence, and disturbing the public peace'.<sup>272</sup> He pointed out that according to the laws, high treason was held to be committed : <sup>273</sup>

'By joining the enemies of the State with hostile intention against its safety, whether undertaken for the total overturning of the State itself, or for overpowering any part of the same, as for the overthrow of the Government of the country; it being sufficient when such be committed with an actual hostile design.'

He then cited the following passage from Blackstone : <sup>274</sup>

'If a man do levy war against our Lord the King in his realm, while as on the one side to make the crime of High Treason appear, it is not required to prove that a person was actually in arms against the State, but it is sufficient that he had excited hostilities against the state, so on the other side by being found in an Armed Rebellion, the crime of High Treason is not constituted, when it does not appear that he had a part in the hostile design or conspiracy; and which is the distinguishing mark between the crime of High Treason and that of High misprison or *laesae Mayestatis*; whence it actually follows that a person can be guilty of High Treason, although he has not been in arms, by writings, by treating with the open enemy, or by other machinations seeking enemyies to excite them to commit, either internally or externally, an attack against the safety of the Realm; while on the other

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270. See further The Rebellion of 1815 : Generally known as Slachters Nek, H.C.V. Leibbrandt (ed.), Cape Town : Juta, 1902.

271. For a summary of the facts, see *supra* p. 338 *et seq.*

272. The Rebellion of 1815, op. cit., p. 47.

273. Loc. cit.

274. W. Blackstone, Commentaries on the Laws of England, 4.6.

hand a man can be an accomplice in an armed Rebellion and in proportion to the degree of his co-operation be guilty the crimes of High misprison, Public violence (by which it is understood violence with arms in distinction from private violence which is committed without arms), and disturbing of the public peace without thereby falling into the heinous crime of High Treason, although equally subject to a very strict interpretation of the Laws.'

The prosecutor claimed that the first five accused were guilty of the crime of high treason, and supported his claim by referring to their confessions and the documentary evidence.<sup>275</sup> With regard to the sixth accused, the prosecutor pointed out that he did not share in the conspiracy or the hostile calling out of the inhabitants against the government, 'and still less in the traitorous correspondence with the Caffres'.<sup>276</sup> He was therefore of the opinion that the accused was guilty of that species of High misprison, which consisted in the committing and carrying on of a rebellion and public violence. He then proceeded to detail the evidence against the accused and the mitigating factors with regard to the punishment claimed.<sup>277</sup> With regard to the seventh accused, the prosecutor pointed out that although he was not present when the conspiracy was formed, he subsequently became a party to it, 'and the dependant state in which he lived, can only free him from the ordinary punishment, but nonetheless subject him to another nearly allied thereto'.<sup>278</sup> The prosecutor pointed out that the eighth accused had accompanied the third accused to 'Cafferland', and although not ignorant of the

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275. The Rebellion of 1815, op. cit., p. 48-59.

276. Op. cit., p. 59.

277. Op. cit., p. 59-61.

278. Op. cit., p. 62.

criminality of the mission, concealed it on his return, and neither acquainted the landdrost of his district nor the field-cornet therewith.<sup>279</sup> The prosecutor concluded that he had thereby become an accomplice. However he pointed out that the accused did not appear to have taken an active part in the rebellion, 'and was considered even by the Caffer Chief Gaika as a boy whom they dragged there with them'.<sup>280</sup> With regard to the ninth accused, the prosecutor pointed out that he was employed in pressing men to commit rebellion and public violence, 'and that he remained to the last with the rebels at the Slagter's Nek, without submitting to the Detachment under the command of the R.O. Prosecutor'.<sup>281</sup> With regard to the tenth accused, the prosecutor pointed out that he did not appear to have any knowledge of the original plot, and that he afterwards joined the commando without being requested to do so. With regard to the eleventh accused, the prosecutor pointed out that he was informed of the impending rebellion but concealed the fact. At Slagtesrnek he was among those who surrendered. With regard to the twelfth accused, the prosecutor pointed out she encouraged and assisted her husband in his armed resistance, and even fired at the soldiers. The prosecutor concluded that she was guilty of 'contempt of the authority of the Government and of public violence'.<sup>282</sup> However he recommended mitigation in her case because of the affection that she felt for her husband, 'and she could easily have been hurried to a step, the extent

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279. The Rebellion of 1815, op. cit., p. 62.

280. Loc. cit.

281. Op. cit., p. 63.

282. Op. cit., p. 64.

of the criminality of which she did not foresee'.<sup>283</sup> With regard to the thirteenth accused, the prosecutor pointed out that he remained a short time with the rebels, and was 'by no means free from blame'.<sup>284</sup> With regard to the thirteenth, fourteenth, and fifteenth accused, the prosecutor pointed out that they had remained with the rebels until their surrender at Slagtersnek. During the period that they were with the rebels, there was no evidence to suggest that they committed any particular acts of violence. The seventeenth accused had accompanied the rebels to the post of Captain Andrews and delivered a message in their name to Major Frazer requesting the release of the first accused. He surrendered at Slagtersnek. The eighteenth accused was informed of the intended plan some days before the outbreak of the rebellion. However he did not inform the field-cornet. He surrendered at Slagtersnek without having been guilty of any particular act of violence. The nineteenth accused 'led by curiosity, had willingly joined the rebels'.<sup>285</sup> However he had separated from the rebels before the arrival of the troops at Slagtersnek. With regard to the next ten accused, the prosecutor pointed out that they had joined the rebels, 'on the persuasion of the late Johannes Bezuidenhout and of the fourth accused, where they remained to the last, although it did not appear that they committed any particular acts of violence'.<sup>286</sup> The prosecutor considered the thirtieth, thirty-first, and thirty-second accused to be accomplices in a lessor degree. The next nine accused were commanded by their lawful field-cornet. Although they only

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283. The Rebellion of 1815, op. cit., p. 64.

284. Op. cit., p. 65.

285. Op. cit., p. 66.

286. Op. cit., p. 67.



followed their field-cornet in the march of the rebels, they could not be absolved of all guilt because they were aware of the criminal nature of the conduct of Johannes Bezuidenhout and their field-cornet. With regard to the remaining accused, the prosecutor declined to claim any punishment.

On 20 January 1816 the commission accepted the claim of the landdrost and sentenced the majority of the the accused to the punishments demanded.<sup>287</sup>

The case of the *Fiscal v Philip Zinn* (1823) represents a trial which was conducted under the procedure that was introduced by the Crown Trial of 1819.<sup>288</sup> The accused, who was a former landdrost, was charged with falsification and *plagium*. The prosecution was conducted by the fiscal, D. Denyssen, and the defence was conducted by Advocate J. de Wet. According to the indictment, in January 1821 the accused married the widow of Hendrik Tobias Moller and became the possessor of the slaves belonging to the said widow. The slaves were accordingly entered in the Slave Registry Department as the property of the accused. On 19 March 1821 the accused called at the Slave Registry Office and caused the child Martha, daughter of the female slave Regina, to be registered.<sup>289</sup> However the child Martha had already obtained her freedom by a manumission from the widow Moller. The

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287. See further The Rebellion of 1815, op. cit., p. 19-21 for the sentence of the court; and p. 71-72 for the punishments demanded.

288. Records of The Cape Colony, Volume 33, p. 340-388.

289. Regina was one of the slaves who came into the accused's possession as a result of his marriage to the widow Moller.

indictment alleged that the accused falsified the date of birth of Martha in order to cause her 'to be plunged into slavery'.<sup>290</sup> This was done contrary to the wishes of the widow Moller and the statutory laws which had declared the child to be free. In addition, the accused mortgaged the child Martha and her mother Regina (by a deed of mortgage dated 2 August 1821) for a sum of twenty-four thousand guilders, due by the accused to David George Anosi. The child Martha was also decreed to be saleable, and was to have been sold by the sequestrator to the government as a slave, 'had not the child Martha's freedom transpired'.<sup>291</sup>

The fiscal presented the indictment, together with the return of service, list of witnesses, and the interrogatories to be be replied to by the defendant in person. After the questions had been put to the accused and the witnesses, the fiscal addressed the court and stated that : <sup>292</sup>

'The crime of *Plagium* (or of the *Lex Tubia de Plagiarus*) that is to say, to plunge a free person into Slavery, is the subject of accusation against the prisoner; few instances appear in the annals of this Colony respecting this crime, which is a proof that however corrupt the human being may be, there still are crimes which he dreads to perpetrate.'

After outlining the indictment, the fiscal stated that the evidence clearly demonstrated that the crime had been proved. He referred to

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290. Records of The Cape Colony, Volume 33, p. 341.

291. Loc. cit.

292. Op. cit., p. 351.

the Roman Law, which he argued was applicable, and stated that 'the crime of *plagium* was checked by severe punishment, nay sometimes with death'.<sup>293</sup> He then dealt with those aspects of the case which had a bearing on the punishment and demanded a sentence of transportation to New South Wales for seven years. In his reply, the accused stated that he had not considered it necessary to employ counsel because he was not guilty. He argued that if it was correct that the child Martha was older than the age under which she was registered, it was necessary to prove that he knew her exact age and that he intentionally reported her to be younger than she was. He stated that this had not been proved and that if he had known that the child was free, he would not have mortgaged her. He also argued that he was not aware of any document in which his wife had expressed the wish to free the child. He also pointed out that his late wife had not stated her intention to emancipate the child in her last will and testament. He questioned the authenticity of the document and suggested that it had been antedated. He stated that it was his wife who had reminded him to register the child, and claimed that he 'had been deceived, and trespassed unintentionally'.<sup>294</sup> He concluded by stating that he was 'pure and innocent of the criminal part of the accusation'.

After considering the evidence, the commissioners absolved the accused from the instance, withdrew the warrant of arrest against him, and condemned him in the costs.<sup>295</sup> They authorised the fiscal to take such

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293. Records of The Cape Colony, Volume 33, p. 353.

294. *Op. cit.*, p. 355.

295. *Loc. cit.*

measures with regard to the just claims of the child as he thought fit. On 22 June 1823 the fiscal noted an appeal against the sentence to the full bench of the Court of Justice.

On appeal the fiscal repeated his claim, which he amplified in great detail,<sup>296</sup> and then proceeded to deal with the law. He claimed that the Roman Law was applicable, and that it provided that 'every person is supposed to be virtuous until he is convicted of the contrary'.<sup>297</sup> He accordingly conceded that the onus of proof rested with him. He claimed that he had conclusively proved that the child had been born on 22 July 1819, and that the statutory law did not recognize a child born over six months and not registered to be a slave. On the contrary he submitted that the law declared such a child to be free. He pointed out that the accused had caused the child to be registered at the Slave Registry Office on 19 March 1821, 'as if the child had been born on the 20th September 1820'.<sup>298</sup> He claimed that the facts had been proved and that the unavoidable inference was that the accused had acted in bad faith, 'unless he could produce contrary proofs to exculpate himself'.<sup>299</sup>

The fiscal referred to the rescript of the Emperor Antonius, which stated that 'the perpetrator of a manslaughter, in order to be free from the punishment enacted for that crime, must produce proofs *non occidendi animo hominem ate percussum esse*'.<sup>300</sup> He claimed that a

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296. Records of The Cape Colony, Volume 33, p. 356-367.

297. *Op. cit.*, p. 367.

298. *Loc. cit.*

299. *Loc. cit.*

300. *Op. cit.*, p, 368.

person who deprived a man of his life had to 'clear himself of the imputation of guilt'.<sup>301</sup> He cited C.9.35.5 which stated that 'he who utters injurious language, although he speaks truth, by which he attacked the honour of a person, must prove *se non convicij consilio aliquid Injuriousum devisse*; otherwise by the said Law he is declared guilty, for no other reasons but those above stated'.<sup>302</sup> Finally he referred to the following 'precedent' in C.9.22.4 : <sup>303</sup>

'A person had pretendedly availed himself of a false Rescript granted by one of the Roman (or Jewish) Emperors. There was no question of its being a false rescript, but the person who made use of it argued that he was deceived by a third person, who gave it to him to be a true and genuine rescript, and what was the decision of the Emperor Alexander in this case ? *Qui deceptus est per alium si suam innocentiam probat et eum a quo accepit exhibit, se liberat.* (He who insinuates to have been deceived by another, must prove his innocence, and besides this be careful that he can name his author).'

The fiscal claimed that the accused could only state in his defence that his wife had told him that the child was born on 20 September 1820. He pointed out that if the accused had approached an advocate with the statement of his deceased wife, he would have been referred to the *proba innocentiam*.<sup>304</sup> However the accused did not think, 'nor could he think that it was a requisite proof'.<sup>305</sup> He concluded by citing Matthaeus,<sup>306</sup> and Cornelis van Eck,<sup>307</sup> in support of his argument.

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301. Records of The Cape Colony, Volume 33, p. 368.

302. Loc. cit.

303. Loc. cit.

304. Op. cit., p. 369.

305. Loc. cit..

306. De Criminibus.

307. Principia juris civilis secundum ordinem digestorum.

The fiscal claimed that he had proved that by falsely causing the child to be registered on 20 September 1820 at the Slave Registration Office, the accused had committed the crime of falsification, a crime described by the law to be 'a malicious secreting, suppression or imitation of the truth, tending to injure another individual'.<sup>308</sup> In perpetrating this act, the accused had also committed *plagium*, which consisted of a fraudulent 'suppression of a free person or a slave belonging to another person'.<sup>309</sup> The fiscal argued that the child was a free person, and that the accused had fraudulently converted her to slavery.

Not only was the crime itself 'highly aggravating', it also became 'aggravating' by the subsequent mortgaging of the child and her mother for a debt.<sup>310</sup> The fiscal accordingly moved for the annulment of the sentence in the court below, and he demanded that the accused be sentenced to transportation to New South Wales for seven years.

In his reply Advocate De Wet answered the charge of *plagium* by stating that even if the deed imputed to the accused was true, it could not be construed as *plagium*. He argued that the idea of abduction always contained in itself 'a forcible or sly abduction of the person to whom it was done, in order to dispose of him secretly in favour of a third third person'.<sup>311</sup> He argued that the following factors had to be

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308. C.9.22.20; C.9.22.22.

309. Matthaeus, *De Criminibus*, ad leg. *Fabiam de Plagiaremi*.

310. *Records of The Cape Colony*, Volume 33, p. 369-372.

311. Op. cit., p. 374-375.

to be present before the law of of *plagium* could be applied : <sup>312</sup>

- a) A forcible and sly abduction.
- b) The confined state of the person stolen.
- c) A secret alienation of the same to a third person.

De Wet cited Johannes van der Linden's definition that '*plagium* takes place when a man is concealed to deprive him of his liberty'.<sup>313</sup> He also pointed out that Sir William Blackstone gave exactly the same definition of the crime of *plagium*, and cited the following passage : <sup>314</sup>

'The other remaining offence, that of kidnapping, being the forcible abduction or stealing away of a man, woman, or child from their own country and sending them into another, was capital by the Jewish Law. He that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death. So likewise in the Civil Law, the offence of spiriting away and stealing men and children, which was called *plagium*, and the offenders *plagiarii*, was punished with death. This is unquestionably a very heinous crime, as it robs the king of his subjects, banishes a man from his country, and may in its consequences be productive of the most cruel and disagreeable hardships; and therefore the Law of England has punished it with fine, imprisonment, and pillory.'

De Wet argued that the accused had never forcibly made himself the master of a free person. All the witnesses had declared that Regina and her child 'had come to the house of the accused without any force or having been compelled to it'.<sup>315</sup> He therefore argued that in the

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312. D.48.15.6.2.

313. J. van der Linden, Institutes of Holland, 2.6.3.

314. Sir William Blackstone, Commentaries on The Laws of England, 4.15.9.

315. Records of The Cape Colony, Volume 33, p. 376.

first place, that part of the *Lex Fabia*, with regard to the accused, 'falls to the ground of itself'.<sup>316</sup> He argued that the child had not been concealed. She was not sold secretly, and she was not conducted to a foreign country or to the interior of the country.

With regard to the crime of falsification, De Wet argued that 'the Law Doctors are pretty consonant'.<sup>317</sup> He pointed out that in the Roman Law falsification is *fraudulenta veritatis imitatio vel suppressio in prejudicium alterius facta*.<sup>318</sup> Therefore in order to prove falsification, 'it is principally required that the most clear proofs are existing of the *dolus* of the act by which it is argued that falsification has been committed'.<sup>319</sup> He cited the German criminalist, Gallus Aloys Kleinschrod, who stated that : <sup>320</sup>

'Dolus ist der Entschluss zu einer handlung, desen Gesetz iwidrigheit man vollkommen und deutlick einsiet.'

He pointed out that Emanuel Kant was of the same opinion.<sup>321</sup> He also cited Van der Linden, who stated that falsification 'is a design done intentionally, and the secreting of the truth, tending to the injury of another person'.<sup>322</sup> De Wet accordingly argued that in order to establish the crime of falsification it was necessary to prove : <sup>323</sup>

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316. Records of The Cape Colony, Volume 33, p. 376.

317. Op. cit., p. 377.

318. Loc. cit.

319. Loc. cit.

320. G.A. Kleinschrod, Grund begriffe und Grund warheiten des Peinlichen Rechts, I.2.14.

321 E. Kant, Metaphysische Anfangsgrunde der Rechtslere.

322. Institutes of Holland.

323. Records of The Cape Colony, Volume 33, p. 377.



- a) An intentional and criminal design.
- b) A direct injury to a third person.

De Wet then proceeded to examine the evidence in order to demonstrate that the accused did not have the necessary 'intentional and criminal design'.<sup>324</sup> He concluded by making an impassioned plea for mercy.<sup>325</sup>

On 2 July 1823 the Court of Justice declared that the fiscal had been aggrieved by the sentence of 20 June 1823, and condemned the accused to be confined at Robben Island for the term of twelve months.<sup>326</sup> The accused was also condemned in the costs of the rehearing. Although it is not clear from the sentence whether the accused was convicted of plagiarism or falsification, the issue was subsequently clarified by the Chief Justice in a letter to John Thomas Bigge.<sup>327</sup> The Chief Justice stated that : <sup>328</sup>

'The wilful suppression of a free person as a Slave is a crime known by the name of *Plagium* in the Roman Law, and in the Dutch Law by that of *Menschenroof*, which by Van der Linden, a Modern Author of repute, is described to be "the suppression of a man with intent to deprive him of his liberty". The punishment of which crime varies according to the more or less aggravating circumstances of the cases from scourging and banishment to death. This disposition of the Roman Dutch law is perfectly applicable to the offence described in your letter, and has consequently, since the Proclamation of the 26th April 1816, been acted upon by his Majesty's Fiscal in a prosecution against Christian Philip Zinn, for having maliciously and wilfully caused to be registered as a Slave, and afterwards mortgaged a young girl, born from a Slave of his wife, which she had made free before her marriage, and which in consequence hereof

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324. Records of The Cape Colony, Volume 33, p. 377-385.

325. Op. cit., p. 385-386.

326. Op. cit., p. 386-387.

327. Letter dated 19 May 1827, Records of The Cape Colony, Volume 33, p. 387-388.

328. Op. cit., p. 387.

had not been registered, pursuant to the said Proclamation, within six months after her birth; which prosecution was on the 2nd July 1823 followed by a sentence of the full Court, whereby C.P. Zinn was condemned to a confinement at Robben Island for the space of twelve months.'

The case of the *Fiscal v William Edwards* (1824) represents another trial which was conducted under the procedure that was introduced by the Crown Trial of 1819.<sup>329</sup> The case is of notable interest because the accused, who had been admitted as a notary public at the Cape, was subsequently found to be Alexander Lowe Kaye, an escaped convict from New South Wales. The accused was charged with having : <sup>330</sup>

'Wilfully and *mala fide* made, drawn up, and published two libellous writings, both subscribed by him with his name, the one dated 22nd April 1824 and addressed to His Excellency Lord Charles Henry Somerset, and the other dated the 26th April 1824 and addressed to the Right Honourable the Judge in Appeal.'

After placing the indictment before the Court, together with the letters in question, the commissioners granted a decree of corporal apprehension against the accused, with provisional suspension from his office as notary public. The accused then handed in a statement of the witnesses whom he wished to have examined.<sup>331</sup> The fiscal informed the Court that he did not think that it was necessary to call any witnesses to substantiate the charge against the accused. However he reserved the right to comment on the accused's list of witnesses after he had been examined. When the interrogatories were put to him, the

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329. Records of The Cape Colony, Volume 17, p. 373-452.

330. Op. cit., p. 373.

331. The list contained fourteen names, and included that of the Governor and the Judge of the Vice-Admiralty court amongst other prominent civil servants.

accused raised the following exceptions : <sup>332</sup>

- 1) The illegality of his arrest.
- 2) That the necessary documents were not filed.
- 3) The total absence of the *corpus delicti* or alleged crime.
- 4) The incompetency of the court itself.

The fiscal was then given an opportunity to reply to the exceptions, <sup>333</sup> and the commissioners summarily dismissed them. The interrogatories were put to the accused, who denied writing or signing the letters in issue. The Court adjourned until the following day, when the fiscal objected to the hearing of the witnesses called by the accused, <sup>334</sup> and the accused was given an opportunity to reply. <sup>335</sup> The commissioners summarily rejected the list of witnesses handed in by the accused and declared the investigation to be closed. Before requesting the fiscal to make his claim and demand, the Court cautioned the accused on his use of scandalous language and on his 'indecent and slanderous manner'. <sup>336</sup>

In his claim and demand the fiscal referred to the letters, <sup>337</sup> and stated that in the first letter Edwards had accused the Governor of 'partiality, injustice, incongruity, inconsistency and arbitrary conduct in his administration'. <sup>338</sup> In the second letter Edwards had

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332. Records of The Cape Colony, Volume 17, p. 378-384.

333. Op. cit., p. 384-385.

334. Op. cit., p. 387-391.

335. Op. cit., p. 391-394.

336. Op. cit., p. 395.

337. The letters have been published in The Records of The Cape Colony, Volume 17, at p. 268-271 and p. 276-277.

338. Records of The Cape Colony, Volume 17, p. 398.

accused the Governor of 'wilful and premeditated partiality and injustice in his Excellency's sacred function as Judge in Appeal'.<sup>339</sup>

The fiscal claimed that the Court had to judge the case according to the Dutch Law, although he argued that the decisions of the English courts 'corresponds nearly with it'.<sup>340</sup> He claimed that according to the Dutch Law, the injury was not liable to any doubt, because : <sup>341</sup>

- a) The *corpus delicti* existed.
- b) The crime had been consummated by the accused.

He stated that if there was any doubt that the principles of the English Law and the Dutch Law did not correspond, then the latter had to prevail. He was of the opinion that both systems of law were derived from the Roman Law. He explained that because both systems of law were the same, he had no hesitation in referring to the English Law, but where the two systems differed, he would follow the Dutch Law. In this respect, he did not feel that it was necessary to call any witnesses because the documents spoke for themselves. However he pointed out that according to the English Law, 'it is an invariable rule not to grant an information for a libel, without an exculpatory affidavit'.<sup>342</sup> He claimed that the latter requirement had never been observed in Holland or at the Cape. He stated that under both the English and the Dutch Laws : <sup>343</sup>

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339. Records of The Cape Colony, Volume 17, p. 398.

340. *Op. cit.*, p. 399.

341. *Loc. cit.*

342. Sir John Holt, Law of Libel, 3.2.257.

343. Records of The Cape Colony, Volume 17, p. 400.

'It is not at all in point in the criminal Investigation of the Crime with which the prisoner is charged, to ask whether he has written truth or falsehood, but whether his two Letters are libellous as I have described them to be in my act of Accusation.'

He found support for this principle in De Groot's *Inleidinge* 3.36.2; by Voet in his Commentaries D,47.10 (*de Injuriis*), beginning with the words *Quod se verum esse constet quod objectum set nec sic quidem objicient ab abjura semper excusatus est* and ending in the words *inimico de ferentis animo profecisci*; and in the English *Law of Libel* by Holt.<sup>344</sup>

He claimed that according to the Dutch Law, the injury was not subject to any doubt because of the existence of a *corpus delicti* and the consummation of the crime by the accused. He cited De Groot in order to demonstrate that : <sup>345</sup>

'Slandering is the crime of those who either verbally or in writing in the absence or in the presence secretly or publicly state anything by which a man's honour is wounded, even were such the truth, excepting such statements be made to the magistrate for punishing guilt.'

He claimed that both letters were public statements, 'by which the Honour and dignity of the representative of our Sovereign in this Colony is wounded and by which His Excellency is insulted and vilified in the most scandalous manner'.<sup>346</sup> He claimed that the *animus injuriandi* was proved by the letters themselves. He pointed out that

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344. Sir John Holt, *Law of Libel*, I.3.40; and 3.4.275.

345. Hugo Grotius, *Introduction to Dutch Jurisprudence*, 3.36.2.

346. *Records of The Cape Colony*, Volume 17, p. 401.

the Roman Law, from which the Dutch Law was derived, stated in this respect that the proof that no *animus injuriandi* existed was laid on the shoulders of the accused; *si non bonvicii Consilio te aliquid injuriosum dixisse probare potes fides veri a calumnia te defendit.*<sup>347</sup>

He claimed that this principle was applied by the English Law, and quoted the following passage by Lord Ellenborough : <sup>348</sup>

'The necessary tendency of the Libel was in the Language of the indictment, to traduce and defame the prosecutor, and to prejudice him in the minds of his countrymen and to cause it to be laid to his charge and to deprive him of the benefit of an impartial Trial. If so, the Law infers that such was the intention of the defendants in publishing it, and they must answer for the injury they have thus done to the Prosecutor individually and to the community of which he is a member.'

He claimed that there was no doubt that the accused was the author of the letters because of the handwriting and because of his signature. He then proceeded to support this claim by referring to the accused's conduct prior to the writing of the letters.<sup>349</sup>

The fiscal then dealt with his second point, namely that the crime had been consummated by the accused. He stated that : <sup>350</sup>

'As long as the crime of Injury is only meditated or intended, so long as the libellous writing is locked up in the desk, and on the first moment ... destroyed and consigned to external oblivion, so long is there no

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347. Records of The Cape Colony, Volume 17, p. 402.

348. Sir John Holt, Law of Libel, 2.12.187.

349. Records of The Cape Colony, Volume 17, p. 402-405.

350. Op. cit., p. 405.

consummation of the crime; but the moment that the Injurer lets the abuse escape his Lips, or draws the offensive writing from its concealment, then the crime is consummated.'

He referred to the Roman Law in order to support the claim that the injury existed as soon as the injurious writing was delivered.<sup>351</sup> He pointed out that De Groot 'placed the crime in the mere expressing of the injury'. He claimed that Blackstone and Holt were of the opinion that 'the mere sending of an abusive letter to the man to whom it is addressed is sufficient to ground a criminal prosecution, or as the English Law expresses it, a sufficient publication of the libel for the above purpose'.<sup>352</sup> He claimed that there was no doubt that the accused caused the two letters to be delivered to the Governor, and he dismissed the defence argument that the letters 'may have been stolen from his table or out of his pocket'.<sup>353</sup>

The fiscal then proceeded to deal with the nature of the punishment which had to be imposed. He referred to the Roman Law, which stated that the crime increased in proportion to the high rank and situation of the person against whom the abuse was levelled.<sup>354</sup> He stated that : <sup>355</sup>

'The Prisoner has dared to attack with the most violent abuse the Governor who in the name of His Majesty the King holds the reins of the public administration in this Colony, he has done so in writing, he has by declaring that

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351. D.47.10.5. [This reference does not appear to be correct.]

352. Sir William Blackstone, Commentaries on the Laws of England, 2.12.220; and Sir John Holt, Law of Libel, 3.5.283. See further Records of The Cape Colony, Volume 17, p. 406.

353. Op. cit., p. 407.

354. I.4,4,9 (*de iniuriis*).

355. Records of The Cape Colony, Volume 17, p. 408-409.

he will be and will act as an open enemy of the Governor, through whose indulgence not a year ago he was allowed to remain in this Colony and earn his daily bread as a Notary, most plainly and evidently evinced his audacity and at the same time his baseness, his crime has therefore almost reached the pinnacle, one step more and the prisoner will contend with the Sovereignty and dare attack the King on the Throne.'

The fiscal referred to the fact that the accused had a previous conviction 'for a molest in the house and for abusive language against one of the inhabitants of this Town', and had been sentenced to pay a fine of one hundred and fifty rixdollars. He had also been convicted of contempt of court and had been sentenced to one months' imprisonment. He accordingly called for a severe punishment, 'in order to end such gross and indecent irregularities'.<sup>356</sup> He pointed out that the punishment was discretionary,<sup>357</sup> and that the Court could even impose the death sentence.<sup>358</sup> He demanded that the accused be declared guilty of the crime of libel, 'aggravated by the incorrigibleness of his conduct', and that he be dismissed from his office of notary public and declared incapable of serving His majesty in any honourable capacity. He further demanded that the accused be sentenced to transportation to New South Wales for seven years and that he be condemned in the costs of the prosecution.

The trial then adjourned in order to provide the accused with an English translation of the claim and demand. On 8 May 1824 the accused

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356. Op. cit., p. 410.

357. D.47.10.45.

358. C.9.36.1.



addressed a letter to the secretary of the Court and enclosed a sketch of a resolution which he wanted the Court to answer.<sup>359</sup> He pointed out that in the course of the trial his argument had been interrupted by the fiscal, the interpreter, and the judges. He stated that if any attempt was made to interrupt his argument when the trial resumed, he would not proceed with his defence.

When the trial resumed, the accused was informed that the Court had previously resolved not to hear 'any witnesses whatever, whether to prove the truth or falsity of the different points appearing in the letters'.<sup>360</sup> Furthermore, the Court stated that it was not prepared to : <sup>361</sup>

'Admit any evidence either pro or contra respecting the subject of the prosecution, the entering therefore into the contents of the letters in question, to which at all events the mere statement and recapitulation of the prisoner himself cannot add any proof and would be a mode of defence which can have no other possible tendency than to insult, annoy, and thereby act directly contrary to the resolution already passed by the court in this regard, through which the prisoner would expose himself to the application of the penalty in that case made and provided. The court are far from wishing to throw any obstacle in the way of the prisoner's defence, and should the prisoner *bona fide* conceive the proving of the truth and existence of the assertions contained in the said letters is necessary to refute the whole charge of libel or to extenuate the aggravating circumstances, the court are perfectly willing that he should assume this position and endeavour to demonstrate its justness with decency and propriety, which the court feel themselves obliged to declare they consider to be the only defence in point and consequently the only justifiable one.'

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359. Records of The Cape Colony, Volume 17, p. 411-413.

360. *Op. cit.*, p. 417.

361. *Loc. cit.*

The accused then proceeded to argue his case,<sup>362</sup> but was continually cautioned that he was transgressing the resolution 'to go on with decency and propriety without making any personal or ironical remarks'.<sup>363</sup> He pointed out that the fiscal had omitted to refer to Simon van Leeuwen's *Commentaries on the Roman Dutch Law*, which had been translated into English by authority of the British Government under the direction of an able lawyer. He stated that according to this author : <sup>364</sup>

'A libel for the first time is only punished with a fine, and for the second time with double the amount, but it is quite indifferent to me, for the more severely I am punished the better it will answer the purpose.'

He argued that he was a professional man, that he could produce references to his character, and that according to the Dutch Law his act was 'only a private calumny'.<sup>365</sup> He admitted that the letters contained slander, but argued that some allowance had to be made for his feelings, 'which were exasperated by liberties taken with his name at the Governor's table'. He stated that he 'was stamped with the hateful appellation of a radical'. At this stage, Edwards was warned not to expose himself to the effects of the resolution. The accused then proceeded to deal with his list of witnesses, but he was interrupted and again warned. The accused then referred to his sketch of a resolution and demanded an answer from the Court. After being

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362. Records of The Cape Colony, Volume 17, p. 418-422.

363. Op. cit., p. 419.

364. Op. cit., p. 420.

365. Op. cit., p. 421.

informed that the Court did not consider themselves bound to answer it, the accused stated that he was not prepared to proceed with his defence.

The Court was then declared open for the purpose of passing sentence. The commissioners found that the two letters contained the 'most gross slander of His Excellency the Governor and also as Judge of the highest Court of the Colony'.<sup>366</sup> They held that the letters constituted : <sup>367</sup>

'A libel under the most aggravated circumstances, that the prisoner is the author thereof and consequently guilty of this crime, attended with the further aggravating circumstances that the prisoner has not scrupled in the course of his trial and notwithstanding the several warnings of the court, to repeat his slander publicly and in the most insolent manner.'

The accused was dismissed from his office as notary public and declared to be incapable of ever serving His Majesty in any honourable capacity. He was sentenced to be transported to New South Wales for seven years and was ordered to pay the costs of the prosecution.

The accused noted an appeal to the full bench, but after hearing argument from Advocate C.T. Brand on his behalf,<sup>368</sup> and the fiscal in reply,<sup>369</sup> the Court held that the accused was not aggrieved by the sentence of the Court below.<sup>370</sup>

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366. Records of The Cape Colony, Volume 17, p. 423.

367. Loc. cit.

368. Op. cit., p. 427-447.

369. Op. cit., p. 447-451.

370. Op. cit., p. 451.

The trial aroused great interest in the colony, and the Commissioners of Inquiry requested the Chief Justice to answer the following questions : <sup>371</sup>

- 1) Is an official communication from the colonial secretary to the fiscal, referring to a personal and verbal communication made by the governor to the secretary, of such a nature as to supersede the necessity of substantiating and verifying the contents of such communication by oral proof?
- 2) Can an order of the Court of Justice for the personal arrest of an individual be issued upon communications simply of this nature, and unsupported by any other proof?
- 3) Is it competent for the commissioners of the Court of Justice to enter upon judicial proof of a signature, which a person accused of writing it denies, by comparing it with a signature of a letter alleged, but not proved, to be that person's handwriting?
- 4) Are the acknowledgements made by an accused party in the course of pleading and involuntarily, of the same validity as those made deliberately; and can a person be convicted of a crime upon such involuntary acknowledgements?

In his reply the Chief Justice stated that the court had been obliged to enter upon the merits of the case of William Edwards in order to answer the questions.<sup>372</sup> With regard to the first question he stated that : <sup>373</sup>

'The Colonial Secretary being the usual and regular channel by which informations and directions from the Governor and Government are conveyed to the several Departments of administration, an official communication from that officer is considered in the several Courts of law as a Public document, the signature of the Public Officer to which

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371. Letter from the Commissioners of Inquiry to the Chief Justice and Members of the Court of Justice dated 23 August 1824. Records of The Cape Colony, Volume 18, p. 240.

372. Letter from Court of Justice to the Commissioners of Inquiry dated 30 August 1824. Records of The Cape Colony, Volume 18, p. 267-272.

373. Op. cit., p. 268.

carries full credit of everything contained therein, without requiring further proof.'

With regard to the second question the Chief Justice stated that : 374

'The Official Communication of the Colonial Secretary to H. M. Fiscal in the case of Edwards could in itself only serve to make him acquainted with the desire of His Excellency the Governor "that the Fiscal should officially adopt legal measures with respect to the Contents of the two letters to His Excellency by Mr. William Edwards, and transmitted by that official communication to His Majesty's Fiscal", but could in itself afford no ground of prosecution to the Fiscal if the contents of the two letters transmitted with it had not justified the commencement of such prosecution; and even then the Fiscal could not on the mere authority of the Governor have commenced a prosecution without first having obtained a decree of the Court of Justice to that effect.'

The Chief Justice explained that the fiscal had brought an application to the Court for an order to arrest Edwards. The Court had to ascertain whether it was certain, or whether there were strong grounds for believing that the crime had been committed by the accused, and whether the crime would subject Edwards to corporal punishment. The Court had found that sufficient grounds existed for believing that Edwards had committed the crime and that the crime was subject to corporal punishment. He pointed out that the warrant of arrest was founded on : 375

'The libellous contents of the two letters signed by the name of William Edwards annexed to the Official Communication, and in the conscientious belief of the Court

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374. Records of The Cape Colony, Volume 18, p. 268-269.

375. Op. cit., p. 269.

that both those letters had actually been sent by himself to His Excellency the Governor.'

He pointed out that the letters were not letters of an unknown person whose name and writing came before the Court for the first time, but of a man who had written and subscribed one of those letters as a notary public, in which capacity, agreeably to law, his notarial documents were fully entitled to belief, and could not be disbelieved by any court in the colony.

With regard to the third question the Chief Justice stated that : 376

'Comparison of hand is according to our law a legal matter of proof, but considered as uncertain and not sufficiently conclusive unless supported by additional circumstances.'

He explained that in the case of Edwards the commissioners did not deem it necessary for the fiscal to produce additional evidence in the form of unidentified letters, because in the first place it would have been necessary 'to produce those letters to the accused party in order to make his defence thereon'.<sup>377</sup> In the second place 'the comparison was no longer necessary in that stage of the proceedings in which the Fiscal produced the letters', because the accused had already acknowledged his crime 'and thereby rendered all comparison of hand superfluous'.<sup>378</sup> He stated that if a comparison had been deemed necessary in Edwards' case : 379

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376. Records of The Cape Colony, Volume 18, p. 270.

377. Loc. cit.

378. Loc. cit.

379. Loc. cit.

'It should have been done by way of preliminary investigation, when it was to have been preceded by substantiating that the letter or other documents with which it was intended to compare the libellous writings had been written by Edwards and by no one else.'

With regard to the fourth question the Chief Justice explained that involuntary acknowledgements in the course of a criminal trial could not be used against the accused party. However in the case of Edwards, he stated that the Court did not entertain the slightest doubt that the accused had : 380

'Voluntarily and deliberately confessed himself in his plea upon the exception, guilty of being the Author of both the libellous letters laid to his Charge and sent to His Excellency the Governor.'

The Chief Justice explained that the confession was made after the act of accusation had been read to Edwards, and then he admitted the whole : 381

'Not in general or equivocal terms, but by making in the most distinct manner every charge contained therein his own, and striving to justify his conduct in having expressed the libellous matter which is to be found in those Letters.'

#### 5.6.4. CONCLUSION

The detailed analysis of the extracts from the criminal court records, which have been selected at random, demonstrates that they are indispensable for an understanding of the nature of the

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380. Records of The Cape Colony, Volume 18, p. 271.

381. Loc. cit.

application of the criminal law at the Cape during this period. This has recently been confirmed by an independent study of the criminal court records from approximately 1807 to 1827 conducted by Professor L. F. van Huyssteen, who came to the positive conclusion that a 'substantive study of the criminal law as it was applied could be done from the original documents'.<sup>382</sup>

## 5.7. THE TREATMENT OF SLAVES AND THEIR POSITION UNDER THE CRIMINAL LAW

### 5.7.1. INTRODUCTION

It is often forgotten that the Cape was a slave society for nearly two hundred years. The cases discussed in the foregoing section indicate, however, that this was a factor to be reckoned with in cases that came before the courts of the day. In order to obtain an accurate view of relations at the Cape and all the factors influencing the administration of justice, it is therefore necessary to consider the treatment of slaves and their position under the criminal law in some detail.

Lord de Villiers, who was a staunch supporter of equality before the law, stated that 'it was one of the primary functions of the court to protect the rights of individuals which may be infringed, and it makes no difference whether the individual occupies a palace or a hut'.<sup>383</sup>

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382. Van Huyssteen, op. cit., p. 286-298.

383. Zgilli v McLeod (1904) 21 SC 150 at 152.



However during the early nineteenth century it was of utmost importance whether an individual was a burgher, a free black, a Khoi, or a slave. The criminal law was not imposed uniformly and impartially, and the severity of the sentences depended largely on the legal status of the accused. In this respect the slave class occupied a unique position. Their status was determined by the Roman Law which regarded them as human beings, but classified them as property. However they were not entirely without rights, nor were they regarded exclusively as property. In short a slave had no *caput*.<sup>384</sup>

#### 5.7.2. THE POSITION OF SLAVES AT THE CAPE OF GOOD HOPE DURING THE PERIOD OF THE DUTCH EAST INDIA COMPANY ADMINISTRATION

During this period Cape society was characterised by a rigid distinction between the different classes of inhabitants. Distinctions were drawn between Company servants, free burghers, free blacks, Khoi, San and slaves. In addition to these broad class distinctions, there were distinctions within the classes. Within the class of slaves, the different groups developed on similar lines to the groups that were recognized in Roman society, and the category or group 'made a tremendous difference to the individual slave'.<sup>385</sup> The fact that the

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384. I.1.16.4. See further W.W. Buckland, Roman Law of Slavery : Conditions of the slave in private law from Augustus to Justinian, Cambridge : University Press, 1908, p. 2-11, and p. 83-87; and D.B. Davis, The Problem of Slavery in Western Culture, New York : Oxford University Press, 1988, p. 31-33.

385. A.M. Hugo, The Cape Vernacular, Inaugural Lecture dated 11 May 1970, Cape Town : University of Cape Town, 1970, p. 14-16.

slaves ranked at the bottom of the class hierarchy and were considered to be the property of their owners, provides an explanation for their particularly harsh treatment. Statements by contemporary observers and more recent writers to the effect that slavery at the Cape was of a 'particularly mild nature' cannot be accepted without qualification. Most of the writers drew their conclusions without taking into account the different groups within the class of slaves, and based their observations on the *servi urbani* at Cape Town. In practice the status group to which the individual slave belonged largely determined his treatment.<sup>386</sup> In this respect the *servi urbani* and home-bred slaves were generally treated far better than the *servi rustici* and imported slaves. However slavery was considered to be a necessary evil at the Cape, and all the groups were subject to a multiplicity of laws and police regulations which were based on the Roman Law.

When slaves were first imported to the Cape, the Council of Seventeen instructed Van Riebeeck to treat them well and to take good care that they were taught a trade.<sup>387</sup> Van Riebeeck had been employed as a scribe in Batavia during the period when the Statutes of India were drawn up, and he was definitely influenced by these Statutes when he laid down the law pertaining to the treatment of the slaves at the

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386. There were distinctions between public and private slaves (*servi publici et privati*); between town slaves and country slaves (*servi urbani et rustici*); between unskilled and skilled slaves (*operarii et artifices*); and between imported and home-bred slaves. See further Hugo, op. cit., p. 14.

387. A.J. Böeseken, Slaves and Free Blacks at the Cape 1658-1700, Cape Town : Tafelberg, 1977, p.9.

Cape.<sup>388</sup> Furthermore an analysis of the numerous Cape plaacaten which dealt with the treatment of slaves before 1715, when the Statutes of India were formally adopted at the Cape, indicates that they were based on the Batavian laws. Batavian enactments which were adopted at the Cape included the statute which specifically forbade owners to use their slave women as prostitutes,<sup>389</sup> the statute which allowed slaves to lodge complaints against their owners,<sup>390</sup> and the statute which prescribed that a culprit who caused the death of a slave through ill-treatment had to be punished either with a flogging or be put to death.<sup>391</sup> In practice the strict letter of the law was not rigorously applied at the Cape, and owners who caused the death of their slaves through ill-treatment were punished by the imposition of a fine.<sup>392</sup>

After the Company authorized Van Riebeeck to release a number of the Company servants from their contracts, a distinction was made between the *servi publici*, who belonged to the Company, and the *servi privati*,

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388. See further the reference to the Statutes of India in the Placaat dated 6 August 1658, which dealt with the mishandling of slaves. Kaapse Plakkaatboek, Deel, I, p. 36-37.

389. Statute dated 11 December 1620. Van der Chijs, Nederlandsch-Indisch Plakkaatboek, Volume I, p. 82.

390. Statutes dated 16 June and 23 August 1625. Van der Chijs, op. cit., p. 172.

391. Loc. cit.

392. The death sentence was first imposed in 1822, when William Gebhardt was convicted of having killed a slave belonging to his father. CJ 816, p. 699-735. Under Roman Law during the Republican period, slave owners enjoyed an unlimited right to destroy their slaves. However the Emperors placed restrictions on this right, and Claudius was the first to declare that the killing of a slave by his owner was murder. *Mosaicarum et Romanarum Legem Collatio*, 33.2.1. Emperor Constantine attempted to distinguish between homicide and death through flogging. If the slave died from a flogging, the owner was not guilty of homicide unless he intended to kill the slave. C.9.41.1. The use of a deadly weapon was conclusive proof of such intention. C.3.38.11; D.21.1.35; D.21.1.39; and D.32.1.41.2.

who belonged to the free burghers. The free burghers were forbidden to flog their slaves, and they had to refer cases of disobedience which merited heavy punishment to the Court of Justice.<sup>393</sup> At the same time the fiscal was ordered to treat the slaves in accordance with the laws of Batavia.<sup>394</sup> Furthermore the free burghers were forbidden to have a whip or lash made of cane or other material in their houses, and they were not allowed to bind their slaves before administering a beating for minor domestic offences.<sup>395</sup> In December 1658 both the free burghers and the officials were forbidden to gamble. If they were caught gambling with a slave, they were subject to a fine and imprisonment on a spare diet.<sup>396</sup> In 1661 Van Riebeeck ordered the free burgers to lock their slaves up during the night, and later allowed them to shackle their slaves in order to prevent them from plundering the gardens and from running away.<sup>397</sup> However it appears that during Van Riebeeck's administration very few cases involving slaves were brought before the Court of Justice.<sup>398</sup> One of these cases involved the constable, Willem Cornelis, and the female slave Mary. The couple were surprised while in bed together, and Cornelis was sentenced to pay a fine of fifty reals and was dismissed from his post.<sup>399</sup> The case is significant, because under Roman Law a master could not be convicted of committing *stuprum* with a slave.<sup>400</sup>

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393. Placaat dated 6 August 1658. Kaapse Plakkaatboek, Deel I, p. 36.

394. Loc. cit.

395. Loc. cit.

396. Placaat dated 6 December 1658. Kaapse Plakkaatboek, Deel I, p. 46.

397. Placaat dated 13 January 1661, Kaapse Plakkaatboek, Deel I, p. 64.

398. Böeseke, op. cit., p. 20.

399. CJ 1, p. 164, 168 and 169.

400. Hugo, op. cit., p. 9.

Zacharias Wagenaer, who succeeded Van Riebeeck as commander in April 1662, was not unsympathetic towards the slave population. This was demonstrated in 1666, when he took issue with the Reverend Philippus Baldaeus for refusing to baptize a slave child.<sup>401</sup> After this incident instructions were received from Batavia which confirmed the right of slaves to ask for the baptism of their children.<sup>402</sup> During Wagenaer's administration, which lasted for four years, only one case of ill-treatment of a slave appears in the records of the Court of Justice.<sup>403</sup> During the administration of Cornelis van Quaelebergen (1666-1668) an interesting case occurred which confirmed that slaves were allowed to own their own property. One of the Company slaves, Catrijn from Bengal, had lost eighty rixdollars to Cornelis van Benthem and Aurelius Probenius in a game of cards. The three culprits were summoned to appear before the Court of Justice, and the two men were each ordered to pay twenty-five rixdollars to Catrijn.<sup>404</sup> During Pieter Hackius' administration (1670-1671) a slave was even allowed to institute a civil action against a burgher for the recovery of a debt. For example, the slave, Isaak from Bengal, demanded payment of fifteen rixdollars from Arnoldus Willemz on 1 July 1671. The Court of Justice upheld the claim and ordered the defendant to pay the debt *cum expensis*.<sup>405</sup>

Notwithstanding the relatively 'mild nature' of slavery at the Cape,

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401. Böeseke, op. cit., p. 27.

402. Resolution of the Council of Policy. C 3, p. 139-142.

403. A Chinese convict called Ytcho Wancho was convicted of having attacked a slave woman. See further Böeseke, op. cit., p. 30.

404. CJ 1, p. 377.

405. CJ 1, p. 665 and 703.

the slaves continued to run away, and the punishments became more severe and were exceptionally harsh even for the seventeenth century.<sup>406</sup> At the same time, the Company slaves began to bring their complaints before the visiting Commissioners, who were instrumental in improving the quantity and quality of their rations, and their clothing,<sup>407</sup> and there are various indications that their plight was given at least some official attention. For instance during Isbrand Goske's administration (1672-1676) the name and place of origin of each slave had to be recorded in the Company's books. Goske discovered that twelve slave children had been born in the Slave Lodge and that nine of them had European fathers.<sup>408</sup> He condemned the promiscuity between the female slaves and the Company officials and other visitors, and recommended that the slaves should be allowed to marry after they had been baptised. In future the Company slaves had to attend Christian prayers each evening together with the officials, and they had to attend Church services twice on Sundays. In addition they had to be taught their prayers in the Dutch language.<sup>409</sup> But, as far as their position under the criminal law is concerned, nothing changed.

During the administration of Simon van der Stel (1679-1699) large numbers of slaves continued to run away, and the Council of Policy had to accept that severe punishments did not serve as a deterrent.<sup>410</sup>

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406. Flogging, branding and the loss of ears were the most common forms of punishment. Böeseke, op. cit., p. 32-34.

407. Böeseke, op. cit., p. 34-35.

408. Goske regarded the latter to have been born into freedom.

409. Suid-Afrikaanse Argiefstukke : Belangrijke Historische Dokumenten, Volume 1, p. 100-101.

410. Resolusies van die Politeke Raad, Volume 2, p. 308-309.

However this did not lead to a more enlightened approach, and the most vicious and cruel punishments continued to be imposed by the Court of Justice.<sup>411</sup> The court records reveal that the incidence of crime amongst the *servi privati* was far greater than that of the *servi publici*. This can be explained by the fact that the Company slaves were placed under constant supervision, and they did not have many opportunities to escape and commit offences.

When Commissioner Van Reede visited the Cape in 1685, he gave serious attention to the conditions under which slaves lived and also to the laws generally applicable to them. He decreed that the fiscal would no longer be allowed to cause a slave to be beaten on behalf of an owner without the consent of the commander. Van Reede had noticed that the burghers had frequently called on the fiscal to punish their slaves, and he 'shrewdly thought that they would think twice before having their slaves beaten, because they would now have to explain the reason for the caning to the commander himself'.<sup>412</sup>

He also found that the placaat which forbid sexual intercourse between white men and female slaves had been ignored,<sup>413</sup> and that concubinage with a slave was accepted as being lawful. In his instructions to the Commander and Council,<sup>414</sup> Van Reede decreed that the Company slaves were not to be exchanged, sold, or given to officials leaving the Cape for the East. Furthermore, if an imported slave had served the

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411. Bøeseken, op. cit., p. 40-43.

412. Op. cit., p. 44.

413. Placaat dated 9 December 1678. Kaapse Plakkaatboek, Deel I, p. 151.

414. Memorials and Instructions. C 700, p. 215-217.

Company faithfully for thirty years, could speak Dutch, and had been confirmed in the Reformed Church, he was to be allowed to obtain his freedom upon paying one hundred guilders to the Company.<sup>415</sup> Company slaves, who were born at the Cape, were to be allowed to purchase their freedom after they had reached the age of forty. However the *servi privati* would have to rely on the kindness of their owners.<sup>416</sup> Van Reede also prohibited marriage between freed slave women and burghers. Female slaves who had white fathers were to be allowed to marry whom they liked after they had been liberated, on condition that the the prospective grooms were 'upright and honourable', and were able to support their intended spouses without assistance from the Company.<sup>417</sup> Van Reede directed that the Slave Lodge be divided into three sections. One of the sections had to be set aside for 'married' couples, who would have to take a vow of loyalty in the presence of a specially authorised official.<sup>418</sup> The 'marriage' was in fact a formal recognition of *contubernium*.<sup>419</sup>

Van Reede warned the slaves that the breaking of the vow would be severely punished.<sup>420</sup> Another section was reserved for young girls and unmarried women, who were instructed to live chaste and virtuous lives. If they wanted to cohabit with a male slave, their names had to be entered on the roll of 'married' slaves and they were transferred

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415. Provision was made for the amount to be paid in instalments.

416. C 700, p. 217.

417. The woman had to be a member of the Reformed Church.

418. Slaves could not be married in Church unless they were confirmed. This is another departure from the Roman Law which regarded marriage as a contract, and slaves could neither impose nor undertake legal obligations. See further Hugo, op. cit., p. 9.

419. C.9.9.23.

420. C 700, p. 205.



to the married quarters.<sup>421</sup> The third section of the Lodge was set aside for boys under twelve and single men. Van Reede had found fifty-seven slave children, who had white fathers, in the Lodge. He directed that they could claim their freedom at the age of twenty-five on condition that they could speak Dutch, had been confirmed in church, and paid the Company one hundred guilders. The females could purchase their freedom on the same conditions at the age of twenty-two. If a suitor wanted to marry one of them at an earlier age, he had to pay the Company one hundred and fifty guilders, and the marriage had to be by way of antenuptial contract.<sup>422</sup> After Van Reede departed the Cape, Van der Stel paid more attention to the condition of the slaves. However seven years after Van Reede's departure, it was reported that there were seventy-eight slave children in the Lodge who had white fathers.<sup>423</sup>

During the eighteenth century the various laws which regulated the condition of the slave population at the Cape were codified by Ryk Tulbagh.<sup>424</sup> The placaat, which consisted of twenty-nine articles, can be conveniently classified into five divisions.<sup>425</sup> The first category consisted of rules which regulated the daily lives of the slaves and included provisions against gambling, smoking pipes in the streets,

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421. Loc. cit.

422. If the woman died first, the Company would inherit her property unless the husband was prepared to buy off this right at a reasonable price. C 700, p. 205.

423. Letters Despatched. C 503, p. 344.

424. Placaat dated 3 September 1754. Kaapse Plakkaatboek, Deel 3, p. 1-6.

425. Robert Ross, *The Rule of Law at the Cape of Good Hope during the Eighteenth Century* (1980) 9 Journal of Imperial and Commonwealth History, p. 10-12.

traffic regulations, and creating public disturbances. The second category dealt with offences relating to the harbouring of fugative slaves. The third category was directed against the prevention of theft by slaves, and included provisions relating to the selling and purchasing of goods in the streets. The fourth category was aimed at preventing the slaves from plotting and rebelling, and the officers of justice were authorized to break up any gathering of more than three slaves belonging to different masters. The fifth category dealt with the relations between owners and their slaves, and neatly summarized the role of the law in relation to their respective positions. A slave who insulted, libelled, scorned, or falsely accused his master or mistress had to be punished by a whipping and confinement in irons according to the circumstances of the case.<sup>426</sup> However if a slave struck his master or mistress, with or without a weapon, he was subjected to the death sentence.<sup>427</sup>

In 1796 the members of the Court of Justice made no secret of the fact that the equality of punishment ceased when slaves were convicted of having committed offences against Europeans and other free persons.<sup>428</sup> When Lord Macartney requested the president of the Court of Justice to prepare a memorandum on the system of slavery, Van Ryneveld replied as follows : <sup>429</sup>

'According to [the] laws the masters generally have the

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426. Article 1 of the Placaat dated 3 September 1754. Kaapse Plakkaatboek, Deel 3, p. 2.

427. Article 2 of the Placaat dated 3 September 1754.

428. Letter from the Court of Justice to Major-General Craig dated 14 January 1796. Records of The Cape Colony, Volume 1, p. 304-305.

429. Memorandum dated 29 November 1797.

real property of their slaves and the children born of them in slavery; which children always follow the status of their mother, so as to be slaves if their mother be a slave the moment of their being brought to bed of them.'

It would appear that although the Roman Law formed the basis of the legal system relating to slaves during the period of the Company administration, their legal position had been improved to a limited extent by the instructions and directives of the visiting Commissioners, the Statutes of India, and the local placaten. However with regard to punishment, the Court of Justice continued to rely on the Roman Law. During this period the slave population continued to increase at a very rapid rate as a result of importation and the 'natural breeding of slave children'.<sup>430</sup> At the beginning of the eighteenth century the slaves outnumbered the European population, and their numbers had risen to 17,000 in 1791.<sup>431</sup> Importation reached its climax during the first British occupation, and in 1806 there were approximately 29,800 slaves and 26,200 Europeans at the Cape.<sup>432</sup>

#### 5.7.3. THE POSITION OF SLAVES AT THE CAPE DURING THE SECOND BRITISH OCCUPATION 1806-1834

On 25 March 1807 the British Parliament passed a law which put an end

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430. Hugo, op. cit., p. 8.

431. In 1708 there were approximately 1,147 adult slaves and 789 adult Europeans. W. Blommaert and S. Gie, Vit Ou Reisbeskrywinge, Kaapstad : Nasionale Pers, 1922, p. 173; and O. Mentzel, Description of the Cape of Good Hope, Volume 2, Cape Town : Van Riebeeck Society, 1925, p. 129.

432. J. van Rensburg, *Die Toestand van die slawe aan die kaap 1806-1836*, Unpublished MA Thesis, University of Cape Town, 1935, p. 1 and 4.

to the importation of slaves in every British colony after 1 March 1808. According to Hugo, the slaves at the Cape became 'scarce and valuable articles', and this 'did more to ensure good treatment for the slaves than all the existing laws and regulations put together'.<sup>433</sup> However the existing laws and regulations cannot be dismissed so easily in view of Hugo's earlier statement that a 'thorough scrutiny of the system of slavery will undoubtedly throw a new and most instructive light on the whole system of *regspleging en reg* at the Cape in the days of the Company'.<sup>434</sup> Although the British authorities introduced important measures which had a bearing on the legal status of the slaves at the Cape, the system of slavery that existed in the Company period did not disappear, but continued in operation until slavery was finally abolished in 1834. It is therefore necessary to take a closer look at the legal system in order to clarify the position of the slaves.

In response to a request from Governor Cradock, who considered that nothing less than a 'total revision of all the laws and practices' could remedy the unequal distribution of justice in the colony,<sup>435</sup> the fiscal drew up a comprehensive statement of the laws which were applicable to the slaves.<sup>436</sup> Denysen admitted that slavery was contrary to the laws of nature, but he attempted to excuse the multiplicity of corporal punishments to which the slaves were subjected by stating that they were the 'unavoidable consequence of

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433. Hugo, op. cit., p. 8.

434. Op. cit., p. 22, footnote 14.

435. Letter from Cradock to Lord Bathurst dated 25 January 1813. Records of The Cape Colony, Volume 9, p. 130-131.

436. Records of The Cape Colony, Volume 9, p. 146-161.

slavery', and that unlike free persons the slaves did not possess money or property which could be used to pay fines.<sup>437</sup> He pointed out that when slaves committed trivial offences under the orders of their masters, they were excused and the masters were punished.<sup>438</sup> He defended the right of the owners to punish their slaves on the grounds that 'slaves always incline towards dissolute conduct and take no interest in the welfare of their masters'.<sup>439</sup> He explained that the law which prescribed the death sentence for any violent act committed by a slave against his owner was justified because : <sup>440</sup>

'Slaves would readily shake off the yoke of slavery even at the expense of the life of the master [if] they were not kept in order by fear and domestic restraint.'

According to Denyssen, the following laws regulated slavery at the Cape :

- 1) The Cape Placaaten.
- 2) The Statutes of India in so far as they did not contradict the local placaaten.
- 3) The Roman Law in so far as it did not contradict the spirit of the local placaaten, the Statutes of India, or the spirit of modern jurisprudence.

The fiscal stated that the laws had to be interpreted in favour of the slaves because the Roman Law regarded slavery as being contrary to

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437. Op. cit., p. 144. However it has been demonstrated that the slaves did in fact possess their own money and property (*peculium*), and that the Court of Justice had acknowledged this right, which was recognized by the Roman Law.

438. The fiscal cited D.50.17.157 and D.44.7.20 as the basis for the legal position.

439. Records of The Cape Colony, Volume 9, p. 144.

440. Op. cit., p. 145.

the laws of nature.<sup>441</sup> Furthermore, after the importation of slaves had been prohibited at the Cape, slavery could only arise from birth.<sup>442</sup> He explained that prisoners of war could no longer be enslaved, and this applied 'even if they were Caffres or other barbarous nations living beyond the boundaries of the colony'.<sup>443</sup> When dealing with the authority which the owners had over their slaves, Denyssen demonstrated that it was not absolute, and was limited in the following respects :

- 1) The owner had no right to command a slave to do anything which was contrary to law or morality.<sup>444</sup>
- 2) The owner had no right to kill or maim his slave.<sup>445</sup>
- 3) If an owner was a Christian, he had to bring up his slave in the Christian faith.<sup>446</sup>
- 4) The owner was not allowed to have his slave circumcised.<sup>447</sup>
- 5) Punishment of crimes committed by slaves were reserved for the court.
- 6) The owner could only inflict domestic punishment in the following circumstances : <sup>448</sup>
  - a) When slaves neglected or were negligent in performing their duties.
  - b) When through neglect they occasioned loss to their masters.
  - c) Wilful disobedience to the legal orders of their masters.
  - d) Drunkedness.
  - e) Impudence not amounting to force, or to assaulting

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441. I.1.3.2; and D.50.17.122.

442. Denyssen referred to I.1.3.3, D.1.5.24, and D.1.5.7 in order to explain the principle that children born out of wedlock followed the status of their mothers; and if a mother was emancipated during the time of her pregnancy, the child was also regarded as being free.

443. Records of The Cape Colony, Volume 9, p. 146. Denyssen explained that the Roman Law was not followed in this respect because the principle was contrary to the spirit of modern jurisprudence and the interests of the colony itself.

444. D.1.6.2; D.44.7.20; D.47.10.17.7; D.50.17.157; and C.11.40.6.

445. Hugo Grotius, *De iure belli ac pacis*, 3.14.6.

446. The Statutes of India.

447. Op. cit.

448. D.44.7.20; D.47.10.17.7; and the Statutes of India.

- the master, or openly resisting his commands.
- f) Desertion.
- g) Domestic theft.
- h) All transgressions against the master that were not classified as crimes.
- 7) The owner had no authority to confine a slave in irons.<sup>449</sup>
- 8) The owner had no authority to imprison a slave.<sup>450</sup>

When a slave committed any of the offences which entitled the owner to impose domestic correction, the owner could lodge a complaint with the fiscal or landdrost. A summary investigation was conducted and if the complaint was well founded, the slave could be imprisoned, confined in irons, or flogged by the officers of justice.<sup>451</sup>

Slaves could not be defamed, but if they were physically assaulted, the offender was liable to be punished according to the circumstances of the case.<sup>452</sup> If a slave defrauded a person or committed any other crime, the owner could avoid responsibility by surrendering the slave.<sup>453</sup>

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449. The Statutes of India. If it was necessary to restrain a slave from escaping by confining him in irons, the owner had to notify the landdrost within twenty-four hours.

450. However no slave was entitled to leave his owner's house or service without subjecting himself to domestic correction, and the owners had to ensure that their slaves stayed in doors at night.

451. See further the Placaat dated 3 September 1754 Kaapse Plakkaatboek, Deel 3, p. 1; the Placaat dated 20 August 1794 Kaapse Plakkaatboek, Deel 4, p. 244; the Instructions for the Court of Justice of 1803 BR 496; the Instructions for the Administration of the Country Districts of 1805 BR 499; and Instructions for the Administration of the Cape District of 1809 Records of The Cape Colony, Volume 6, p. 469-483.

452. C.9.9.23.

453. I.4.8; D.9.4; C.9.41; and the Statutes of India. The remedy was not available if the owner ordered the slave to commit the crime or consented to it.

Before considering the police regulations which were applicable to the slaves as a distinct class, it is necessary to deal with the position of owners who killed their slaves as a result of excessive ill-treatment. According to the Roman Law, a person who killed a slave was regarded as a murderer.<sup>454</sup> However when the death was caused as a result of ill-treatment and there was no intention to kill, the owner was subject to corporal or other punishment according to the circumstances of the case.<sup>455</sup> The parents and children of the deceased slave, who belonged to the same owner, had to be immediately sold to the highest bidder.<sup>456</sup> Owners who caused the death of their slaves through excessive ill-treatment were treated very lightly by the Court of Justice until 1819, when William Gebhardt became the first owner to be sentenced to death.<sup>457</sup> Somerset justified his refusal to grant a stay of execution by claiming that : <sup>458</sup>

'The impression made by the execution of the son of Gebhardt presented an opportunity not to be lost. I felt it and availed myself of it, to declare, in affirming as Judge in the Court of Appeals, the sentence passed by the Court below on the individual, my intention of considering the condition and treatment of the slave population. Had I delayed, that impression might have worn off, and I should have had to struggle with prejudices and feelings hostile to the humane object I was anxious to attain.'

Slaves who were ill-treated could lodge complaints with the fiscal or the landdrosts. If the complaint was well founded, the owner had to be charged and summoned before the court. However the most severe

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454. D.48.8.1.1; and D.9.2.23.9.

455. C.9.14; and the Statutes of India.

456. The owner's relatives were not allowed to bid for the slaves.

457. GH 47/2/23, p. 1-468 and GH 47/1/1, p. 128 *et seq.*

458. Letter from Somerset to Bathurst dated 1 February 1824. GH 23/7, p.124.



punishment that could be imposed on the owner was an order that the slave had to be sold.<sup>459</sup> On the other hand if the complaint proved to be groundless, the slave was subjected to domestic punishment by the officers of justice.

Slaves who committed crimes had to be tried by the courts and were subject to the same punishments that were applicable to free men. However in practice they were punished more severely.<sup>460</sup> If the crime was directed against the life or safety of their owners, they were subject to more severe punishments than would normally have been imposed on free persons who committed similar offences. If they attacked their owners, the death sentence was mandatory.<sup>461</sup> Slaves who contravened the following regulations were subject to a flogging :

- 1) Slaves who intentionally jostled or pushed a European in the streets, or who insulted them.<sup>462</sup>
- 2) Slaves who were found carrying weapons.<sup>463</sup>
- 3) Slaves who entered a church or caused a disturbance outside a church on Sundays or holidays.<sup>464</sup>
- 4) Slaves who entered a cemetery.<sup>465</sup>
- 5) Slaves who entered the Government gardens without their owners.<sup>466</sup>
- 6) Slaves who were found smoking a pipe in the streets.<sup>467</sup>

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459. D.1.6; and the Statutes of India.

460. See *supra* 4.2.

461. Placaat dated 20 August 1794. Kaapse Plakkaatboek, Deel 4, p. 244.

462. Op. cit., p. 249. If the owner was present, he had to have the slave punished.

463. Op. cit., p. 247. Slaves were only allowed to carry guns in the presence of their owners. Persons who sold weapons to slaves were subject to discretionary punishments.

464. Op. cit., p. 249.

465. Loc. cit.

466. Placaat dated 9 January 1753. Kaapse Plakkaatboek, Deel 2, p. 241.

467. Placaat dated 20 August 1794. Kaapse Plakkaatboek, Deel 4, p. 249.

- 7) Slaves who rode horses or drove waggons or carriages at high speed through the streets of Cape Town.<sup>468</sup>
- 8) Slaves who cracked their whips in Cape Town.<sup>469</sup>
- 9) Slaves who removed dirt from their owners' houses during the day.<sup>470</sup>
- 10) Slaves who emptied buckets into the streets, canals, squares, or near the doors of houses in Cape Town.<sup>471</sup>
- 11) Slaves who worked as coolies or porters in Cape Town or Simonstown without having registered at the fiscal's office.<sup>472</sup>
- 12) Slaves who rented rooms or houses in the town.<sup>473</sup>
- 13) Government slaves and convicts who hawked their clothes.<sup>474</sup>
- 14) Slaves who whistled or made a noise in the streets at night for the purpose of summoning their comrades in order to commit some irregularity.<sup>475</sup>
- 15) Slaves who joined gamblers in the houses, streets, or secret places.<sup>476</sup>
- 16) Slaves who were found mixing together, fighting, rioting, or making 'tumultuous commotions'.<sup>477</sup>
- 17) Slaves who appeared in the streets at night without lanterns were subject to immediate arrest.<sup>478</sup>
- 18) Slaves who purchased liquor in the wine taverns and public houses.<sup>479</sup>

The owners had to warn their slaves to report the presence of runaway

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468. Op. cit., p. 247; and the Proclamation dated 31 March 1796. Kaapse Plakkaatboek, Deel 5, p. 34.
469. Loc. cit.
470. Placaat dated 11 December 1742. Kaapse Plakkaatboek, Deel 2, p. 205.
471. Placaat dated 20 August 1794. Kaapse Plakkaatboek, Deel 4, p. 247.
472. Proclamation dated 16 March 1809. In addition to the flogging, they could be confined to labour in irons on the public works for a period not exceeding three months.
473. Proclamation dated 15 July 1800. Kaapse Plakkaatboek, Deel 5, p. 210.
474. Placaat dated 20 August 1794. Kaapse Plakkaatboek, Deel 4, p. 244.
475. Loc. cit.
476. Loc. cit. If slaves were found near the water pump, they were immediately tied to a pole which had been erected there and flogged.
477. Placaat dated 20 August 1794, op. cit., p. 247. When the constables came across more than three slaves who were conversing together, they were authorised to separate them with canes if they belonged to different owners.
478. Placaat dated 20 August 1794, op. cit., p. 246. Slaves who arrived from the outlying districts on waggons and wood carriers, who had the necessary passes, were exempted. In addition to lanterns, the slaves had to carry passes.
479. Placaat dated 20 August 1794, op. cit., p. 248.

slaves. If a slave had been duly warned and subsequently discovered a runaway, or heard that a runaway was concealed in some hiding place, he had to inform his owner immediately. If he failed to do so, he was considered to be an accomplice to any crime which had been committed by the runaway.<sup>480</sup>

If a person purchased any item other than food from a slave, he was subject to a fine of fifty rixdollars. If the goods cost less than the market value, he was considered to be a receiver of stolen property and was punished accordingly.<sup>481</sup> If an owner discovered that one of his slaves was absent, he had to report the absence to the fiscal or landdrost within seventy hours.

An analysis of the distribution of slaves at the Cape indicates that the majority lived in and around Cape Town and Stellenbosch, and that the numbers tended to decrease the further the distance from these areas.<sup>482</sup> In the towns the slaves were mainly employed as skilled labourers. In Cape Town most of them were allowed to trade on their own account and resided apart from their owners, to whom they paid a fee for the indulgence.<sup>483</sup> Generally, however, slaves were employed in viticulture, agriculture or as herdsmen.

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480. Placaat dated 7 August 1760. Kaapse Plakkaatboek, Deel 3, p. 31.

481. Placaat dated 20 August 1794, op. cit., Deel 4, p. 248.

482. According to the Return of the Registrar of Slaves dated 31 October 1829, there were 11,929 slaves in the Cape district, 791 in Clanwilliam, 197 in Simonstown, 8,619 in Stellenbosch, 2,924 in Swellendam, 3,937 in Worcester, 116 in Albany, 1,505 in Somerset, 1,181 in Uitenhage, 2,115 in Graaff Reinet, 515 in Beaufort, and 2,105 in George.

483. Records of The Cape Colony, Volume 33, p. 373.

After the British occupied the Cape in 1806, the authorities introduced a number of measures designed to promote the physical well-being of the slaves and to gradually improve their status as human beings. In 1813 Governor Cradock repealed a resolution of the Council of Batavia, which prohibited the transfer or disposal of slaves who had been converted to Christianity, in order to encourage the owners to have their slaves converted.<sup>484</sup> In the same year the maximum number of strokes which could be inflicted on slaves who had been sent to the judicial officers for domestic correction was limited to thirty-nine, and the landdrosts were not allowed to impose more than one month's imprisonment on the complaint of an owner.<sup>485</sup> In May 1823 the flogging of female slaves was prohibited,<sup>486</sup> and the domestic correction of male slaves was reduced to a maximum of twenty-five strokes.<sup>487</sup> In June 1826 the owners' authority to punish their female slaves was restricted to a maximum of three days' solitary confinement or to a moderate whipping on the shoulders.<sup>488</sup>

In 1816 Somerset introduced a system which required the slave owners to register their slaves.<sup>489</sup> An inspector of the registry was appointed at Cape Town and district offices were opened throughout the colony. If a slave owner failed to register his slave within a fixed period of time, he forfeited his right of ownership and the slave was deemed to have been emancipated. In 1826 the inspector was appointed

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484. Records of The Cape Colony, Volume 9, p. 130.

485. Records of The Cape Colony, Volume 33, p. 35.

486. Records of The Cape Colony, Volume 17, p. 37.

487. Proclamation dated 18 March 1823.

488. Ordinance dated 19 June 1826.

489. Proclamation dated 26 April 1816.

registrar and guardian of slaves, and the district officers were appointed assistant registrars and guardians.<sup>490</sup> These officials had to be informed whenever a slave was charged with an offence that was punishable by death, banishment, or transportation. They also had to be notified whenever a person was charged with the murder of a slave, or with any other offence committed against a slave. They had to conduct all the prosecutions involving charges of ill-treatment of slaves by their owners, and had to attend and assist slaves when they were charged with an offence. Whenever a slave alleged that he had been punished illegally, he had to be brought before a competent court in order to undergo an examination. If the marks of a recent flogging were found to be present on the slave's body and he declared that they were caused by the infliction of an unlawful punishment, the owner had to prove that the punishment had been lawfully inflicted, or that it was not inflicted by him or under his orders. If the owner was unable to discharge the onus of proof, he was adjudged to be guilty of the offence. However, if he discharged the onus and the complaint was found to be groundless, the slave was punished.

The proclamation of March 1823 recognised the legality of marriages contracted between baptized slaves, and between baptized slaves and free persons.<sup>491</sup> This privilege was extended to slaves who were not baptized in 1826.<sup>492</sup> However the owner's permission had to be obtained prior to the marriage. If the owner refused to provide sufficient reasons for refusing to give his permission, the slave guardians were

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490. Ordinance dated 19 June 1826.

491. Proclamation dated 18 March 1823.

492. Ordinance dated 19 June 1826.

authorized to permit the marriage. The proclamation of 1823 and the ordinance of 1826 prohibited the sale in separate lots of members of an identifiable family to different owners.<sup>493</sup> The measures also laid down the minimum acceptable standards for food, clothing, and housing which had to be provided by the owner for his slaves.<sup>494</sup> Finally the proclamation of 1823 and the ordinance of 1826 imposed restrictions upon the owners' right to extract labour from their slaves. They made it illegal for slaves to be employed in garden or field labour for more than ten hours each day during the winter months, or for more than twelve hours each day during the summer months.<sup>495</sup>

Although these measures were directed at improving the physical well-being of the slaves by restricting the capacity of the owners to exploit them absolutely, and gradually improved their status as human beings, they remained legally the 'property' of their owners. This contradiction was apparent in the courts, where it was not customary to administer oaths to slaves when they gave evidence. The evidence of slaves was received as information and not as proof, except when it was confirmed by other circumstances.<sup>496</sup> The evidence was then open to objections which were termed 'reproaches'. However the Crown Trial of 1819 stipulated that all evidence had to be given under oath, and the relevant article stated that 'no regard whatever shall be paid to

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493. The prohibition extended to husbands, wives and children under the age of ten years. See further the 1830 Order in Council which extended the prohibition even further.

494. See further the Order of Council of 1831 which set out these standards in detail.

495. See further the Order in Council of 1831 which tightened up the provisions.

496. Records of The Cape Colony, Volume 33, p. 79. This rule was also applied to the evidence of Khoi witnesses.

evidence not sworn to'.<sup>497</sup> The Court of Justice attempted to overcome the problem by examining the slaves before they gave their evidence. If the court was satisfied that the slave understood the nature of the oath, he was duly sworn. However the court reserved the right to receive the testimony of slaves, 'without the sanction of any religious obligation whatever'.<sup>498</sup> The proclamation of 1823 stipulated that the evidence of baptized slaves was admissible in the same manner as any other person.<sup>499</sup> In a letter to Earl Bathurst, Somerset explained that the article did not interfere with the admissibility of evidence given by slaves who had not been baptized, and he referred to Gebhardt's case, where the accused had been convicted of murder on the evidence of slaves.<sup>500</sup> The ordinance of 1826 extended the 'new status' of slave testimony by declaring that the evidence of all slaves was admissible in criminal cases, provided that the witnesses were 'sufficiently instructed in the principles of religion to understand the nature and obligation of the oath'.<sup>501</sup> However the law continued to prevent slaves from giving evidence for or against their owners in civil suits.<sup>502</sup>

The proclamation of 1823 contained another measure which afforded the slaves protection against the arbitrary seizure of their property by owners. If the property was acquired legally, it was deemed to be

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497. Article 31 of the Crown Trial dated 4 Decmber 1819.

498. Records of The Cape Colony, Volume 33, p. 79.

499. Article 12 of the Proclamation of 18 March 1823.

500. Letter dated 31 January 1824. Records of The Cape Colony, Volume 17, p. 38.

501. Article 39 of the Ordinance of 19 June 1826.

502. See further the Order in Council of 1831, which finally placed the evidence of slaves on an equal footing with free persons.

'inherent in the slave, and in no event belonged to the proprietor'.<sup>503</sup> Furthermore the slaves were permitted to initiate proceedings for their emancipation with the assistance of the Court of Justice and British officials, such as the guardian and protector of slaves. Although Somerset attempted to reassure the slave owners that the provisions would not 'affect, in any degree, the property of the proprietors in their slaves',<sup>504</sup> subsequent legislation progressively expanded the right to regulate every aspect of the relationship between the owners and their slaves.<sup>505</sup> A bill for the abolition of slavery throughout the British Empire was passed by the House of Commons on 7 August 1833 and obtained the royal assent three weeks later.<sup>506</sup>

#### 5.8. THE POSITION OF THE KHOI UNDER THE CRIMINAL LAW

When Van Riebeeck landed at the Cape in 1652, he pursued a fundamental principle of Dutch policy which required him to treat the indigenous inhabitants as a free and independent people, who were subject to their own laws.<sup>507</sup> Cases involving Khoi were personally

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503. The Order in Council of 1831 extended the right to own property and provided that all slaves were competent to bring or defend any action in the courts in respect of such property.

504. Proclamation dated 18 March 1823.

505. See further the Ordinance of 19 June 1826, the Order in Council of February 1830, the Order of Council of November 1831, and the supplementary Order in Council for the Cape of February 1832.

506. A.F. Hattersley, *Slavery at the Cape of Good Hope 1652-1838*; in The Cambridge History of the British Empire, Volume 8, op. cit., p. 275. The Emancipation Act was put into operation at the Cape on 1 December 1834. See further Macmillan, The Cape Colour Question, op. cit., p. 77 et seq.

507. Elphick, Khoikhoi and the founding of White South Africa, op. cit., p. 181.



handled by the commander or his agent. When Company goods were stolen, Khoi cattle were seized as security in order to compel the offenders to return the stolen items. However the thefts continued and Van Riebeeck resorted to seizing hostages. The system of hostage taking was misunderstood by the Khoi and Van Riebeeck was forced to bring the offenders before the Court of Justice.

A new policy was established when a Khoi named Sara committed suicide. This was an offence under the Roman-Dutch Law and the fiscal argued that the deceased was subject to the colonial laws because Sara had adopted a European lifestyle. The case was brought before the Court of Justice and the fiscal demanded that the deceased's corpse be dishonoured. The judges granted the claim and the corpse was sentenced to be dragged through the settlement and exposed on a forked post, where it had to remain until consumed by the elements and the birds of prey.<sup>508</sup> The principle of bringing Khoi offenders before the Court of Justice was extended to include Khoi who had not adopted a European lifestyle when five of them were tried for robbing and assaulting settlers. Although the fiscal stated that the accused were 'more beast than men', he argued that they were endowed with a knowledge of natural law and were capable of distinguishing between right and wrong.<sup>509</sup> He accordingly claimed that the court was entitled to apply the principles of natural law in judging the accused. The Court of Justice upheld the claim and sentenced the accused to be scourged,

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508. *Fiscal v Sara* (1671) CJ 1, p. 726-729.

509. *Fiscal v Five Hottentots* (1672) CJ 1, p. 746-747. See further Uit die Raad van Justisie 1652-1672, op. cit., p. 374-384.

branded, and to be confined to labour in irons. In the same year the court condemned Willem van Deventer in *absentia* for killing a Khoi.<sup>510</sup> According to Elphick : <sup>511</sup>

'Though this verdict established a precedent for harshly punishing white mistreatment of Khoikhoi, it also introduced a principle never deviated from in coming years; namely, that though Khoikhoi could be executed for murdering whites, the reverse would not be the case.'

However it appears that the bulk of interracial criminal cases were handled without recourse to the Court of Justice during the early period of the Company administration. During the period 1672 to 1713, Elphick was only able to unearth eight cases involving Khoi defendants.<sup>512</sup> Out of five cases in which whites were charged with killing Khoi, two ended inconclusively because the accused absconded, and in the remaining three cases the accused were sentenced to banishment varying from twenty-five years to life and half their goods were confiscated.<sup>513</sup> Whites convicted on charges of wounding Khoi received variable sentences which ranged from small fines to confinement for life. The sentences meted out to Khoi were generally more severe than those meted out to whites for similar offences.<sup>514</sup>

The labour market began to alter the nature of Khoi society in racial ways, and many of the white inhabitants began to regard them as a

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510. Van Deventer was sentenced to perpetual banishment and his possessions were declared to be forfeited. See further Uit die Raad van Justisie, op. cit., p. 393-398.

511. Elphick, op. cit., p. 185.

512. Elphick, op. cit., p. 186.

513. Op. cit., p. 187.

514. Op. cit., p. 186-187. When Khoi received the death sentence, they were usually handed over to their own people for execution.

permanent labouring class, 'or even as a subdivision of the slave force'.<sup>515</sup> Although the government responded by declaring that the 'laws make no distinction between crimes committed against Christians and heathens',<sup>516</sup> in practice the Khoi were only free and equal in the sense that they were not subject to enslavement and had a legal right to reside in the colony.<sup>517</sup>

In 1787 the authorities attempted to exercise some form of control over the Khoi by requiring them to carry passes if they wished to change their place of residence.<sup>518</sup> This measure, which criminalized the Khoi's right to freedom of movement, sowed the seeds of racial discrimination and provided the basis for the notorious 'pass system'. The authorities also took steps to protect the Khoi in a placaat which provided that any burgher who was convicted of ill-treating a Khoi, or of forcibly separating a Khoi from his wife or children, would be subjected to corporal punishment and confiscation of property.<sup>519</sup> Although the 'courts of law stood open for their protection', the legal position of the Khoi remained in an unsatisfactory state during the entire period of the Company administration.<sup>520</sup>

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515. Elphick, op. cit., p. 181.

516. Loc. cit.

517. See further Marais, The Cape Coloured People 1652-1937, op. cit., p. 111.

518. Resolution dated 19 June 1787. See further the Report of J.T. Bigge on the Hottentot and Bushmen Population of the Cape of Good Hope dated 28 January 1830. Records of The Cape Colony, Volume 35, p. 308. See also the placaat which dealt with the irregular lifestyle of the Khoi dated 16 July 1787. Kaapse Plakaatboek, Deel 4, p. 8-11.

519. Records of The Cape Colony, Volume 35, p. 308.

520. Marais, op. cit., p. 111.

The attitude adopted by the frontier colonists towards the Khoi was demonstrated in 1795, when a number of Graaff Reinet residents rose up in revolt against the authorities. One of the causes of the revolt was the protection afforded to the Khoi by landdrost Maynier, who was accused of preferring the 'heathens before the Christians'.<sup>521</sup> The Graaff Reinet burghers wanted to enslave all San captured in commando raids, and they wanted to restore the custom whereby they retained the services of all Khoi, who were born on their farms, until they reached the age of twenty-five.<sup>522</sup>

During the first British occupation there were two further revolts in the Graaff Reinet district.<sup>523</sup> In 1799 Khoi troops were dispatched to Graaff Reinet to assist in quelling the first revolt. On their arrival, they were joined by a considerable number of Khoi who had deserted the local farms. After the revolt had been quelled, the British commander decided to disarm the Khoi hangers-on in his camp. However, acting under the impression that they were to be forced back into service with the farmers, they fled and joined the Xhosa who were within the boundaries of the colony. The acting governor instructed landdrost Maynier to find a suitable settlement for the Khoi, who had assembled on the banks of the Sundays River and were refusing to return to the service of the farmers. Land was assigned in the Zwartberg and Klein River area to two of the families. The rest,

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521. Marais, op. cit., p. 113.

522. Loc. cit.

523. The revolts took place in 1799 and 1801. See further S. Newton-King and V.C. Malherbe, The Khoikhoi Rebellion in the Eastern Cape 1799-1803, Cape Town : Centre for African Studies, University of Cape Town, 1981.

together with a party which had taken refuge at the drostdy in Graaff Reinet, were assembled at Bethelsdorp and placed under the supervision of the missionary, Dr. Van der Kemp.<sup>524</sup> The governor also instructed Maynier to have all labour contracts between the Khoi and the farmers reduced to writing and registered at the drostdy.<sup>525</sup>

During the Batavian occupation the regulation which required labour contracts to be reduced to writing and registered at the drostdy was extended throughout the colony.<sup>526</sup> The landdrosts were instructed to treat the Khoi as 'free people', who had a legal right of residence in the colony and were entitled to be protected in 'their persons, property, and possessions'.<sup>527</sup> However, unlike other free people, the Khoi could be arrested without a warrant from a magistrate or an order from a prosecutor.<sup>528</sup> Notwithstanding the good intentions of the Batavian Government, the regulations failed to give adequate protection to the Khoi.<sup>529</sup>

During the second British occupation the governors continued to follow a dual policy of providing land for the Khoi at the missionary settlements and of regulating their conditions of labour. However in

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524. The actual grants of land were made by General Janssens in 1803. Records of The Cape Colony, Volume 35, p. 310. See further Marais, op. cit., p. 113-115.

525. Records of The Cape Colony, Volume 3, p. 5.

526. Placaat dated 18 April 1803. Kaapse Plakkaatboek, Deel 6, p. 24.

527. Article 26 of the Instructions for the Administration of the Country Districts dated 24 October 1805. BR 499. The article stipulated that no one was allowed to bury a dead Khoi without permission of a judicial officer.

528. Article 245 of the Instructions for the Administration of the Country Districts dated 24 October 1805. BR 499.

529. Records of The Cape Colony, Volume 35, p. 312.

the eyes of the law, the Khoi were considered to be an inferior class. The first comprehensive measure which attempted to regulate the legal status of the Khoi was passed by Governor Caledon in 1809.<sup>530</sup> The proclamation, which attempted to afford a greater degree of security to the Khoi in their contracts of service with the colonists, in effect placed them 'under the control of every white inhabitant of the country'.<sup>531</sup> On the positive side, all Khoi living within the boundaries of the colony were brought within the jurisdiction of the courts. However the proclamation was designed to force the Khoi onto the labour market, and it criminalized their right to freedom of movement by providing that they had to have a fixed place of residence which they could not leave without a pass.<sup>532</sup> If a Khoi was found to be without a pass, he was treated as a vagabond and was imprisoned and punished. In practice this meant that if a Khoi wanted to move from his employer's farm or from a mission station, he had to obtain a pass from the farmer or missionary. If he wanted to leave the fieldcornetcy, he had to obtain a pass from the field-cornet; and if he wanted to leave the district, he had to obtain a pass from the landdrost.

In order to protect the Khoi to some extent from unscrupulous masters, full particulars of all labour contracts exceeding one months' service had to be registered with a magistrate or with the fiscal. The labour contracts had to comply with detailed provisions which were

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530. Proclamation dated 1 November 1809.

531. Records of The Cape Colony, Volume 35, p. 314.

532. Article 16 of the Proclamation dated 1 November 1809.

aimed at protecting the labourers. For example, no Khoi could be detained beyond the period of service stipulated in the labour contract on account of his being in debt to his master. Although the framers of the proclamation intended to place the Khoi on the same footing, with regard to the ownership of property, as the other classes of free inhabitants, Commissioner Bigge pointed out that since the date of the proclamation, the Khoi were considered to be 'incapacitated by law from holding land'.<sup>533</sup>

The distinction between the burgher class and the Khoi remained intact and the landdrosts continued to exercise their authority to imprison and punish Khoi without having to obtain an order from the Court of Justice.<sup>534</sup> Although the proclamation also forbade the detention of the wives and children of Khoi labourers as security for debts,<sup>535</sup> it was doubtful whether these provisions were impartially enforced.<sup>536</sup> Bigge summed up the position as follows : <sup>537</sup>

'The result of these regulations has been that of creating a perpetual obligation in the Hottentots to enter into service; for although it was declared that at the expiration of his engagement a Hottentot was free to make another, or to act in any other manner that the laws of the colony admitted, yet in the event of his not making a new engagement, he was liable to be apprehended as a vagrant at the expiration of the time mentioned in his pass, thrown into gaol and a master provided for him, who either advanced or became responsible for the expenses of detention. The keepers of the different gaols, who were

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533. Records of The Cape Colony, Volume 35, p. 313.

534. Loc. cit.

535. Article 10 of the Proclamation dated 1 November 1809.

536. Bigge referred to two cases in the Grahamstown district in which field-cornets were sentenced to pay fines of one hundred rixdollars each for detaining Khoi beyond the terms of their contracts. Records of The Cape Colony, Volume 35, p. 317.

537. Loc. cit.

allowed to have an interest in victualling the prisoners and also a power of apprehending vagrants in the towns, were not remiss in this part of their duty and there is no doubt that the contracts made with the Hottentots under the circumstances just described were very disadvantageous to them. Although this practice was observed with regard to Hottentots apprehended as vagrants, yet it was found that the Landdrosts on some occasions had endeavoured to prevent this incarceration by hiring them for short periods to inhabitants of the towns.'

In April 1812 Governor Cradock added his contribution towards criminalizing the conduct of the Khoi by introducing a system of forced apprenticeship.<sup>538</sup> Khoi children between the ages of eight and eighteen, who were born during their parents term of service, were liable to be apprenticed to their parents' masters for a period of eight years. Furthermore the landdrosts were authorized to bind the children as apprentices to 'such other humane persons within their districts as they might think fit'.<sup>539</sup> In 1819 Governor Somerset extended the system of apprenticeship so as to include the children of Khoi, 'who should be left in infancy without provision upon the death or other accident happening to their mothers during a period of service, or who should from any other cause be deprived of legal protection'.<sup>540</sup>

However in 1828 Lieutenant-Governor Bourke passed an ordinance which removed the legal disabilities imposed by these proclamations.<sup>541</sup> The ordinance swept away the system of pass laws, the liability to receive summary correction, and all special obligations of forced labour other

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538. Records of The Cape Colony, Volume 35, p. 320.

539. Loc. cit.

540. Proclamation dated 9 July 1819.

541. Ordinance No. 50 of 17 July 1828.



than those that were the duty of all citizens.<sup>542</sup> The Khoi Magna Carta provided that : <sup>543</sup>

'No Hottentot or other free person of colour lawfully residing in this colony shall be subject to any compulsory service ..., nor to any hindrance, molestation, fine, imprisonment, or punishment of any kind whatsoever under the pretence that such person has been guilty of vagrancy or any other offence, unless after trial in due course of law; any custom or usage to the contrary in anywise notwithstanding'.

Although the harsh treatment that was meted out to the slave population could perhaps be justified formally because of their subordinate legal position under the Roman Law, there was no excuse for discriminating against the Khoi, who were supposed to be a free and independent people. The subjugation of the Khoi and the criminalizing of their conduct can be attributed to the need to satisfy the land and labour requirements of the colonists. The false principle of the inferiority of black people because of their race or colour, which was strengthened by the institution of slavery, further contributed towards the subjugation of the Khoi. The phenomenon of racial inferiority, which had become imbedded in the national consciousness of the white population at the Cape, was later accepted as a fundamental part of South African Law.

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542. Macmillan, op. cit., p. 211.

543. Preamble to Ordinance No. 50 of 17 July 1828.

## CHAPTER SIX

### SUMMARY AND CONCLUSION

In the preceding pages an attempt has been made to develop a sense of the administration of criminal justice at the Cape of Good Hope during the critical period 1795 to 1828, when the foundations for many of the features of our present system were laid.

We saw how in this period - indeed from the very first days of the British occupation - the policy of Anglicisation asserted itself, bringing in its wake the English law and legal institutions which were to transform the application of criminal law in such a decisive manner.

The first chapter concentrated on an analysis of the origins and meaning of Anglicisation insofar as the legal system was concerned, as well as on the agents of that policy, in order to set the political context of the shaping of the criminal justice system of the time. The second chapter set out the structure of the vehicles for the implementation of the policy of the colonial authorities in regard to the prosecution of crime, (i.e. the structure of the various courts with criminal jurisdiction within the Colony). It highlighted (i) the unique Court of Criminal Appeals presided over by the Governor, (ii) the Court of Justice and (iii) the Cape Supreme Court and demonstrated

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how the attitudes and actions of the individual judges and other players set the base-pattern of the administration of criminal justice at the Cape. The third chapter progressed to the mechanics of the administration of criminal justice, that is to the different systems of criminal procedure that were in operation at the Cape during the period 1795 to 1828, including an examination of the office of the public prosecutor and the methods employed for the prevention, detection and investigation of crime.

It was pointed out that the criminal procedure that was being applied at the Cape during the period when it was administered by the Dutch East India Company was based on Philip the Second's Ordinance of 1570. Two forms of procedure which were known as the 'ordinary' and the 'extraordinary' process were recognized by the Ordinance. The ordinary process resembled a civil trial and was of an accusatorial nature. The more common extraordinary process was of an inquisitorial nature and was characterized by two predominant features. In the first place a secret inquiry was held in order to discover the culprit and secondly torture was employed in order to obtain his confession. Furthermore the task of detecting and prosecuting offenders was carried out by a public prosecutor.

It was noted that the abolition of torture in 1797 and the introduction of public trials in 1813 made significant inroads into the inquisitorial procedure, but it was argued that two additional developments occurred which made it necessary to revise the whole

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framework of criminal procedure at the Cape. In 1808 a Court of Criminal Appeals was established for the purpose of hearing all criminal cases which were appealable from every court within the settlement. According to the laws in force at the time, appeals could not be taken against sentences based on the complete confession of the accused. However the Court of Appeals was inclined to admit cases in order to investigate for itself whether grounds for appeal existed or not. Lord Charles Somerset accordingly issued a proclamation in order to clarify the position, but it appeared that the issue was not satisfactorily resolved. The second development occurred in 1817, when limited criminal jurisdiction was granted to the boards of landdrost and heemraden. However the jurisdiction was ill-defined and it was found that the boards were exceeding it. The judges were accordingly instructed to revise the system of criminal procedure and in December 1819 the Crown Trial form of proceedings was introduced.

It was shown that, although the Ordinance of 1570 and the Crown Trial of 1819 were based on the inquisitorial system of criminal procedure, the Crown Trial introduced elements of the accusatorial system (especially in the prosecution of misdemeanours which were not subject to public punishment) without abandoning the inquisitorial system completely. The Crown Trial provided for the service of an indictment on the accused prior to his interrogation, which was compulsory for all trials involving serious crimes. During the interrogatory stage the accused was not allowed to be assisted by counsel, but the public were allowed to witness the interrogation. Furthermore, the

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introduction of public trials had made it possible for the public to witness a number of trials, a fact which tended to win public support for the transformation of the criminal justice system.

Apart from introducing the English form of private prosecutions for the trial of petty offences, the Crown Trial also introduced the English law distinction between crimes and misdemeanours. We saw, however, that the Roman-Dutch Law distinction between public and private forms of punishment was retained, and that the Crown Trial accordingly did nothing to alleviate the harshness of the punishments that were meted out to offenders at the Cape. It was also shown that the Crown Trial contained a number of provisions which were imprecise and confusing: The provisions governing the right of appeal were clearly contradictory and were criticized by the Commissioners of Inquiry, while the Crown Trial itself was a complex and detailed code which was not well suited to the conditions prevailing in the country districts, where the officers involved in the administration of justice were untrained laymen.

Although the Crown Trial introduced elements of English procedural law, the Roman-Dutch inquisitorial form of criminal procedure remained in force until it was replaced by a new code on 25 January 1828. The rules of the Cape Supreme Court and the criminal procedure ordinance of 1828 finally swept away the last vestiges of the Roman-Dutch system of criminal procedure at the Cape. The inquisitorial system of trial by a bench of professional and lay judges was replaced by the

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English accusatorial system of trial by a professional judge, or judges, and jury. The method of conducting preparatory examinations was modelled on the English system and the introduction of a grand jury in Cape Town was firmly based on the English model. The rules and regulations relating to the framing of indictments, bail, powers of arrest and pleading were brought in line with the corresponding rules and regulations in force in England. The British authorities decided to retain the office of public prosecutor and the system of public prosecutions at the Cape. However the system was remodelled on that of Scotland and was more in conformity with the English law.

Apart from attempting to provide an insight into how the English procedure came to be introduced, chapter three also stressed the importance of a proper understanding of the actual procedure itself, particularly because it held the key to a proper understanding of the criminal court records. The value of the court records and, in particular, the claims and demands of the prosecutors, was explained and it was suggested that the court records constitute a valuable source by which to judge the contemporary criminal law that was being applied at the Cape. It was suggested that the criminal trials played an important role in developing the criminal law at the Cape. It was pointed out that the judges were not pronouncing judgment in the modern sense of the term. Under the extraordinary process they were called upon to either accept or reject the claim and demand made by the prosecutor, and to pass the appropriate sentence. The claim and demand, which the public prosecutors had to present to the court in

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criminal cases, contained a lengthy statement of the case, together with the substance of the evidence on both sides and a comment on the force of each part tending to prove the guilt of the accused. The claim and demand ended with a prayer for the imposition of the punishment affixed by the law to the crime. If the punishment was arbitrary the prosecutor prayed for a punishment to be imposed at the discretion of the court. The prosecutor was obliged to notice everything that tended to prove the innocence as well as the guilt of the accused. The claim and demand, therefore, consisted of a combination of the English equivalent of an indictment, argument and summing up of the judge. It was, therefore, concluded that the public prosecutors played a significant role in developing the criminal law and that the claims and demands provide a valuable insight into the application of the contemporary criminal law at the Cape.

Chapters four and five aimed at concretizing the analysis of the administration of criminal justice. This was done by considering (i) the nature of crime at the Cape during this period, (ii) the punishment that was meted out to those found guilty of criminal deeds and (iii) the sources of law that were looked to as authority for the rules of substantive criminal law, for, after all, at the centre of any system of criminal justice stand the actual crimes committed by members of the society to which the system pertains, as well as the concrete responses to those crimes by those entrusted with the administration of the system.

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Chapter four focussed attention on the manner in which the British authorities influenced the existing system of crime and punishment. In this respect the role played by the respective Cape governors in their legislative, judicial and executive capacities was particularly relevant. In their legislative capacity the governors played a major role in improving the lot of the slaves and Khoi. In their capacity as judges of the Court of Criminal Appeals the governors influenced both the decisions and the punishments imposed by the courts. In their executive capacity the governors played a significant role in mitigating harsh punishments by pardoning offenders and by remitting a significant number of sentences.

The detailed analysis of cases which were selected from the records of the Court of Criminal Appeals in order to demonstrate the nature of the different crimes which were committed at the Cape clearly demonstrated that the governors played a significant role in influencing the decisions of the courts. In addition the governors exercised their powers to pardon offenders and to mitigate the punishment imposed in twenty-four per cent of the cases that were laid before them for their *fiats*. It was, therefore, concluded that the percentage was significant and that this indicated that the governors played a far greater role in the administration of the system of criminal justice than had previously been realised. Furthermore as the sole legislators until 1825, the governors were instrumental in passing all the enactments relevant to the administration of criminal justice at the Cape. In exercising these

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powers the governors were actively pursuing a deliberate policy of Anglicisation and they accordingly paved the way for the 'Reception' of the English Law in *complexu*. In this respect they were compared to the Burgundian Princes, who played a significant role in the 'Reception' of the Roman Law in the Netherlands. It was concluded that that the concentration of authority in the hands of the Cape governors was definitely the outstanding characteristic of the administration of the system of criminal justice at the Cape during the period 1795 to 1828.

In order to understand the shifts that occurred in the penal system at the Cape during the period 1795 to 1828, the historical background in both Europe and at the Cape during the seventeenth and eighteenth centuries had to be considered. During this period the focus was on the punishment of the body of the accused. Physical pain, the pain of the body itself, was the constituent element of the penalty. However during the eighteenth century a more enlightened and humanistic approach towards the infliction of punishment was adopted in Europe. Attention was focussed on imprisonment as an independent form of punishment and the infliction of physical pain was no longer an inevitable element of the penalty. However at the beginning of the nineteenth century, both in England and at the Cape, executions and the brutal corporal punishment of offenders continued to be administered regularly, although with less severity than during the seventeenth and eighteenth centuries. It was shown that the

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authorities at the Cape gradually began to express their opposition to the infliction of the more brutal forms of punishment under the influence of the more enlightened European notions, and imprisonment began to take root as a tool of sentencing. Factors such as the influence exerted by the missionaries for the more humane treatment of the Khoi and slave population groups; the deteriorating economic position after 1815, coupled with the shortage of labour; and the liberal values of the British settlers contributed towards a more enlightened policy. However the institution of slavery and the subordination of the Khoi led to an ever-widening divergence between penal developments in Europe and the penal practice of the colony, and it would seem that imprisonment took root at the Cape by default and not because of any definite policy.

The colonial gaols were originally conceived as places for the detention of suspected or arrested offenders until they could be tried by the courts. In England another institution, which was known as the house of correction, evolved as a place of punishment. During the eighteenth century the gaol and the house of correction gradually merged into a place which was used for both the detention of suspects, and as a penal institution for convicted petty offenders and vagrants. In view of the fact that imprisonment as an independent form of punishment for the more serious crimes had not fully emerged at the Cape, the terms 'gaol' and 'convict station' were used in preference to the term 'prison'.

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The Commissioners of Inquiry focussed attention on irregularities in the penal system and were in favour of imprisonment as an alternative to corporal punishment, but they failed to formulate a comprehensive prison policy. This was attributed to several factors: Although the concept of imprisonment as an independent punishment for short-term offenders had been accepted in principle, it had not yet taken root in the case of long-term offenders. In addition adverse economic conditions in Britain and the Cape militated against the implementation of any meaningful changes. Furthermore in Britain transportation was the preferred punishment for long-term offenders and the penal administration was decentralised. Finally the birth of the prison in the modern sense of the term had not yet been conceived.

During this period several noteworthy developments were noticed. The shift in emphasis from the infliction of physical pain on the body of the offender towards imprisonment for females and petty offenders was the most significant. This led to overcrowding in the gaols, which could not be disregarded by the authorities. Measures such as the introduction of the treadmill in the gaol at Cape Town and the establishment of the house of correction for prostitutes were introduced in order to alleviate the situation. Furthermore control over the gaol in Cape Town was removed from the fiscal and placed in the hands of the superintendent of police. Overcrowding in the gaols also focussed attention on the need to institute a system of classification for the different classes of inmate. However lack of

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adequate space in the majority of the gaols prevented all but a rudimentary separation of the inmates.

In chapter five the sources of the criminal law which were applied at the Cape during the period of the Dutch East India Company administration were investigated and the concept of Roman-Dutch Law was considered. The narrowing of the concept to the Roman-Dutch Law of the Province of Holland during the second British occupation was explained as a reaction to the pervading influence of the English Law. The infiltration or pre-reception of English law, which was dealt with in the first four chapters, was further investigated. The value of the records of the Court of Criminal Appeals, the Court of Justice and the circuit courts was considered as a source by which to judge the application of the contemporary criminal law. The records were used to demonstrate that the criminal law that was being applied by the courts at the Cape was not restricted to the Roman-Dutch Law in the narrow sense of the term, but was more in accordance with the *ius commune* of Western Europe. The analysis further demonstrated that the criminal law did not remain in a static condition, but was being continually developed and, after the second British occupation, reference was also made to English authorities.

Although the criminal law was applied to all the inhabitants at the Cape during the period 1795 to 1828, this was not always the case. It

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was therefore deemed necessary to consider the position of the Khoi during the period of the Dutch East India Company administration in order to ascertain when and how they were brought within the criminal justice system. The British policy of criminalizing the labour system in order to force the Khoi into the economic system was also considered. In addition, the position of the slaves, who were subjected to a host of additional criminal sanctions, was discussed in detail, showing how at this important juncture of South African Law, the patina of class and race, which was to bedevil our law for so long, was already being formed.

In order to understand the sources of criminal which were applied at the Cape during the period 1795 to 1828, it was necessary to trace the system of colonial administration under the Dutch East India Company and it was ascertained that the following sources of law were applied by the Court of Justice at the Cape during the period 1652 to 1795 :

- 1) The Cape Placaaten.
- 2) The Statutes of India of 1642.
- 3) The Directives of the Council of Seventeen.
- 3) The Ordinances of the Estates-General which were specifically enacted for the overseas possessions.
- 4) The Laws of the United Netherlands.
- 5) The Imperial or Roman Law.

The development of the criminal law at the Cape during the period of the Dutch East India Company administration coincided with the era of the Dutch Republic when the Roman-Dutch Law was 'in full flower'. The

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analysis of court records during this period revealed that the sources of law consisted of the Roman Law, the Law of the United Netherlands, the Statutes of India and the proclamations of the local administration. Carpzovius and Van Leeuwen were found to be the most popular authors. But it was also demonstrated that, although the Dutch writers of the Province of Holland predominated, the local lawyers did not restrict themselves to these writers and they quoted freely from other sources, so that the criminal law at the Cape breathed the spirit of the *ius commune*.

When the British occupied the Cape in 1795 the Company ceased to exercise any form of control over the colony and the ordinances of the Estates-General, the directives of the Council of Seventeen and the statutes of the Batavian Government were no longer a creative factor in the legal development of the colony. The British Governors were vested with legislative powers and the Council of Policy was abolished. Governor Macartney was instructed to administer the colony 'as nearly as circumstances will permit ... in conformity to the laws and institutions that subsisted under the ancient government of the settlement'. However he was authorized to introduce changes in the administration, 'not only in cases of emergency but also where they would be evidently beneficial or desirable'. Although Macartney was given a great deal of latitude in his instructions, he exercised these powers sparingly. The most radical change which was of lasting significance to the administration of criminal justice and the criminal law was implemented on 17 May 1797, when Macartney abolished

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the use of torture and other barbarous modes of execution.

The analysis of the criminal records during this period revealed that Damhouder, Matthaeus, Moorman and Van Hasselt, and Bort were frequently quoted. In addition reference was also made to Merula, Voet, Van Leeuwen, Vromans, Voorda, Kesterman and Lulius. Van der Linden, who was the last writer on the Roman-Dutch Law, also featured in the records. The German writers continued to feature strongly and both Carpzovius and Gaill were quoted. Reliance was also placed on extracts from the Bible.

The analysis, therefore, confirmed that the latest developments in the criminal law of the Netherlands were being followed by the lawyers at the Cape and were being incorporated into local practice. The British occupation effectively put an end to the further incorporation of Batavian and Dutch statutory law at the Cape, but it failed to have any influence on the continued application of the European *ius commune*.

Although the Batavian occupation lasted for only three years it did serve to reunite the Cape with the Netherlands. During this period De Mist created a professional bench of lawyers and drew up detailed rules for the Court of Justice. The rules, which remained in force until the abolition of the Court of Justice in 1827, contained a provision which directed the judges to follow 'de styl en practycq voor den Hove van Holland' whenever necessary. It was suggested that

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this provision must have influenced the judges and advocates when choosing authorities in matters of substantive law, and it was therefore seen as a contributing factor which led to the narrowing of the definition of Roman-Dutch Law to the Province of Holland.

It was noted that during the second British occupation the Roman-Dutch Law of the Province of Holland began to assert itself as the predominant source of common law at the Cape. The two most important legal officials, Sir John Truter and Daniel Denyssen, had both received their legal education at Leiden and it was suggested that they would be inclined to follow the laws of the Province of Holland in preference to those of the other provinces. In his evidence to the Commissioners of Inquiry, Truter confirmed this and stated that, with the exception of the statutes dealing with the laws of slavery, the Batavian statutes were seldom cited in the courts. He also confirmed that the practitioners referred to English authorities in their pleadings, but that they were only accepted as law in some commercial cases. Denyssen cast some light on his approach to the Roman Law by explaining that it was subsidiary to the laws of the United Provinces and to the statutory laws of East India which were in force at the Cape. He explained that when he referred to the Roman Law as a subsidiary source of law, he used the *Corpus Iuris* and did not take into account the earlier Roman Laws such as the Twelve Tables.

The narrowing of the definition of the Roman-Dutch Law was advanced by

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the British Government when the Secretary of State for Colonies introduced a translation of the 1744 edition of Van Leeuwen's *Het Roomsche-Hollandsche Recht* as authority in the former Dutch colonies. The authorities at the Cape clearly felt the need for clarification on the subject and this was expressed when P. B. Borchers was instructed to compile an English translation of the criminal law section of Van der Linden's *Rechtsgeleerd practicaal en koopmans handboek*. The translation was printed by the government press in 1822, but it was not distributed, presumably because the translation of Van Leeuwen's work had already been introduced as authority at the Cape. However the attempt by the British Government to apply a fixed meaning to the concept of Roman-Dutch Law failed, and the problem has remained unresolved.

The detailed analysis of the records of the Court of Criminal Appeals during this period revealed that the *Corpus Iuris* was the most popular source of law. Matthaeus was quoted in the majority of cases and the German authors, Carpzovius and Boehmer, appear to have been held in high regard. It was significant that Blackstone was quoted regularly, notwithstanding Chief Justice Truter's evidence that the English authorities were not accepted as law in criminal cases. This suggested that the English Law had already begun to infiltrate the substantive criminal law at the Cape before the establishment of the Supreme Court in 1828. The infiltration or 'pre-reception' of English criminal law was explained as a positive reaction to the policy of Anglicisation and to the role played by the Court of Criminal

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Appeals. The fact that the lawyers quoted from a broad selection of sources also suggested that the concept of Roman-Dutch Law was being interpreted in the wider sense of the term.

It was accordingly proposed that in the field of criminal law the orthodox narrow view of Roman-Dutch Law should be rejected in favour of a broader interpretation which would include the *ius commune*. The fact that the sources of criminal law at the Cape during the period 1652 to 1828 were not restricted to the Province of Holland and that authority was sought from sources outside the Netherlands supported this proposal.

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On the whole the analysis of the evolution of the system of criminal justice at the Cape of Good Hope at the turn of the eighteenth and early nineteenth century has, it is believed, made a contribution towards a better understanding of the state of the application of criminal law at that time, as well as a better understanding of some of the factors that played a role in the making of the current South African system of criminal justice. In the process of doing so, it is hoped, further light has been shed on the complex processes involved in the creation of legal systems generally.

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## **BIBLIOGRAPHY**

The Bibliography has been arranged as follows :

### **1. MANUSCRIPT SOURCES**

### **2. OFFICIAL PRINTED SOURCES**

### **3. PRINTED COLLECTIONS OF DOCUMENTS**

### **4. SECONDARY SOURCES**

#### **4.1. Biographical Material**

#### **4.2. Books**

#### **4.3. Periodical Articles and Serial Publications**

#### **4.4. Unpublished Theses**

#### **4.5. Newspapers**

### **1. MANUSCRIPT SOURCES**

#### **1.1. Council of Policy (Politieke Raad)**

Resolutions : C 74, C 105, C 650, and C 700.

Letters Despatched : C 503.

#### **1.2. Court of Justice (Raad van Justisie)**

Resolutions : CJ 1. (1728)

Letters Received : CJ 771. (1786)

1.3. First British Occupation

Miscellaneous Documents : BO 34. (1796)

1.4. Batavian Occupation

Provisioneele Instructie voor den Raad van Justitie : BR 496.  
(1803)

Ordinance for the Administration of the Country Districts : BR  
499. (1805)

1.5. Second British Occupation

1.5.1. Court of Justice

Criminal Sentences : CJ 801 - 821. (1806-1827)

Reports Received : CJ 3446 (1812-1813)

1.5.2. Government House

Letters Received : GH 1/3. (1808)

GH 1/12 (1827)

GH 1/67 (1828)

GH 1/69 (1828)

GH 1/71 (1828)

GH 1/72 (1829)

GH 1/87 (1831)

Letters Despatched : GH 23/1. (1807)

GH 23/4 (1811)

GH 27/5 (1815)

GH 23/8 (1828)

GH 23/9 (1831)

#### 1.5.3. Court of Criminal Appeals

Minute Book : GH 47/1/1.

Records : GH 47/2/1 - 47/2/28. (1810-1827)

Pleadings : GH 49/1 - 49/30. (1810-1827)

Opinions : GH 54/1. (1810-1827)

#### 1.5.4. Colonial Office

Letters and Reports Received : CO 1299 (1808)

CO 2565 (1809)

CO 2566 (1809)

CO 2567 (1808)

CO 2568 (1808)

CO 16 (1809)

CO 23 (1810)  
CO 25 (1810)  
CO 71 (1811)  
CO 1301 (1811)  
CO 1616 (1811)  
CO 2575 (1811)  
CO 4829 (1811)  
CO 96 (1812)  
CO 98 (1812)  
CO 1427 (1812)  
CO 142 (1813)  
CO 1428 (1813)  
CO 1439 (1813)  
CO 78 (1815)  
CO 95 (1817)  
CO 148 (1820)  
CO 236 (1825)  
CO 414 (1828)

Letters Despatched

: CO 48/14 (1812)  
CO 48/17 (1812)  
CO 1469 (1812)  
CO 1439 (1813)

Proclamations

: CO 5808 - 5819. (1811-1820)

Circulars	:	CO 1762	(1812)
		CO 1488	(1818)

Rules and Regulations	:	CO 5758	(1927)
-----------------------	---	---------	--------

## 2. OFFICIAL PRINTED SOURCES

### 2.1. Placaats and Proclamations (1532-1805)

Constitutio Criminalis Carolina dated 17 June 1532.

Ordinances dated 5 and 9 July 1570.

Ordinance dated 1 April 1580.

Octrooi dated 10 January 1661.

Statute of India dated 11 December 1620.

Statute of India dated 4 May 1622.

Statute of India dated 16 June 1625.

Statute of India dated 23 August 1625.

Cape Placaat dated 6 August 1658.

Cape Placaat dated 6 December 1658.

Cape Placaat dated 13 January 1661.

Cape Placaat dated 9 December 1678.

Cape Placaat dated 11 October 1720.

Cape Placaat dated 11 October 1740.

Cape Placaat dated 11 December 1742.

Cape Placaat dated 9 January 1753.

Cape Placaat dated 3 September	1754.
Cape Placaat dated 7 August	1760.
Cape Placaat dated 19 January	1771.
Cape Placaat dated 16 June	1774.
Cape Placaat dated 10 August	1778.
Cape Placaat dated 23 April	1779.
Cape Placaat dated 16 July	1787.
Cape Placaat dated 3 September	1792.
Cape Placaat dated 20 August	1794.
Cape Placaat dated 22 August	1794.
Proclamation dated 11 October	1795.
Proclamation dated 15 October	1795.
Proclamation dated 31 March	1796.
Proclamation dated 11 July	1797.
Proclamation dated 17 July	1797.
Proclamation dated 24 July	1797.
Proclamation dated 2 September	1797.
Proclamation dated 8 November	1797.
Proclamation dated 19 February	1800.
Proclamation dated 15 July	1800.
Proclamation dated 2 January	1803.
Proclamation dated 18 April	1803.
Proclamation dated 22 May	1804.
Proclamation dated 24 October	1805.

2.2. Proclamations and Government Notices (1806-1824)



Notice dated 5 April	1806.
Proclamation dated 10 June	1808.
Proclamation dated 26 August	1808.
Notice dated 4 March	1809.
Proclamation dated 16 March	1809.
Proclamation dated 1 April	1809.
Proclamation dated 29 September	1809.
Proclamation dated 1 November	1809.
Notice dated 16 December	1810.
Proclamation dated 16 May	1811.
Notice dated 28 August	1812.
Notice dated 29 August	1812.
Proclamation dated 3 September	1813.
Proclamation dated 25 September	1813.
Proclamation dated 27 May	1814.
Proclamation dated 7 June	1814.
Proclamation dated 26 April	1816.
Proclamation dated 18 July	1817.
Proclamation dated 3 July	1818.
Proclamation dated 20 March	1818.
Proclamation dated 26 August	1818.
Proclamation dated 9 July	1819.
Proclamation dated 4 December	1819.
Proclamation dated 15 September	1820.
Proclamation dated 24 May	1822.
Proclamation dated 18 March	1823.

Proclamation dated 28 March	1823.
Proclamation dated 30 January	1824.

2.3. Ordinances and Proclamations (1825-1828)

Notice dated 8 April	1825.
Proclamation dated 2 May	1825.
Ordinance dated 28 May	1825.
Ordinance dated 10 October	1825.
Notice dated 20 October	1825.
Ordinance dated 29 May	1826.
Ordinance dated 19 June	1826.
Ordinance dated 4 September	1826.
Proclamation dated 10 December	1827.
Ordinance dated 11 December	1827.
Ordinance dated 19 December	1827.
Ordinance dated 1 January	1828.
Ordinance dated 25 January	1828.
Ordinance dated 4 February	1828.
Ordinance dated 17 July	1828.
Ordinance dated 1 March	1830.

3. PRINTED COLLECTIONS OF DOCUMENTS

Ross, G.                      African Court Calendar, (1807-1827), Cape Town :  
South African Library Reprint Series, 1979-1987.

Böesken, A.J., *et al*

Suid-Afrikaanse Argiefstukke. Resolusies van die  
Politieke Raad. Volumes 1-10. Kaapstad en  
Pretoria : Staatsdrukker, 1962-1984.

Böesken, A.J. (ed.) Uit die Raad van Justisie 1652-1672, Pretoria :  
Staatsdrukker, 1986.

Cau, C., *et al* Groot Placaet-Boek. Volumes 1-9. Amsterdam : 's-  
Gravenhage, 1658-1796.

Du Toit, A. and Giliomee, H.

Afrikaner Political Thought. Volume 1. 1780-1850,  
Cape Town : David Philip, 1983.

Eybers, G.W. (ed.) Select Constitutional Documents Illustrating  
South African History 1795-1910, London : George  
Routledge & Sons, 1918.

Giliomee, H. See Du Toit, A. and Giliomee, H.

Harding, W.

Cape of Good Hope Government Proclamations from  
1806-1825, and Ordinances passed in Council from  
1825-1844, 5 Volumes. Cape Town : A.S. Robinson,  
1838-1855.

Jeffreys, M.K., et al

Kaapse Plakkaatboek. Volumes 1-6 (1652-1806).

Cape Town : Cape Times, 1944-1951.

Leibbrandt, H.C.V. Slachters Nek, Cape Town : Juta, 1902.

Theal, G.M.

Belangrijke Historische Dokumenten over Zuid Afrika. Volume I. Memorien en Instructiën, Cape Town, 1896.

Catalogue of Books and Pamphlets relating to South Africa, Cape Town : Maskew Miller, 1912.

Records of the Cape Colony. Volumes 1-36 (1795-1818). London : Government of the Cape Colony, 1897-1905.

Thom, H.B. Journal of Jan Van Riebeeck. Volume 2 (1652-1685). Cape Town : Balkema for the Van Riebeeck Society, 1954.

Van der Chijs, J.A. Nedelandsch-Indisch Plakkaatboek. Volumes 1-9. Batavia : 's-Gravenhage, 1885-1891.

#### 4. SECONDARY SOURCES

4.1. Biographical Material

Borcherds, P.B.B.

An Auto-Biographical Memoir, Cape Town : A.S.  
Robertson, 1861.

De Kok, W.J., et al

Dictionary of South African Bibliography. Volumes  
1-4. Cape Town and Durban : Human Sciences  
Research Council, 1963-1981.

King, H.

Richard Bourke, Melbourne : Oxford University  
Press, 1971.

Meiring, J.

Thomas Pringle : His Life and Times, Cape Town :  
Balkema, 1968.

Millar, A.K.

Plantagenet in South Africa : Lord Charles  
Somerset, Cape Town : Oxford University Press,  
1965.

Picard, H.W.J.

Lords of Stalplein, Cape Town : H.A.U.M., 1974.

Roberts, A.A.

A South African Legal Bibliography, Pretoria :  
Wallachs, 1942.

Potgieter, D.J., et al

Standard Encyclopaedia of Southern Africa.  
Volumes 2 and 4, Elsie River : Nasou, 1970.

#### 4.2. Books

Barnes, H.E. and Teeters, N.K.

New Horizons in Criminology, 3rd ed., Englewood  
Cliffs : Prentice-Hall, 1959.

Barrow, J.

Travels into the Interior of South Africa. Volume  
2, London : Cadell & Davies, 1806.

Blommaert, W. and Gie, S.F.N.

Uit Ou Reisbeskrywinge, Kaapstad : Nasionale Pers,  
1922.

Blount, E.

Notes on the Cape of Good Hope, made during an  
excursion in that Colony in the year 1820, London  
: John Murray, 1821.

- Böeseken, A.J.      Slaves and Free Blacks at the Cape 1658-1700, Cape Town : Tafelberg, 1977.
- Bird, W.W.      State of the Cape of Good Hope in 1822, Cape Town : Struik, 1966.
- Buckland, W.W.      Roman Law of Slavery : Conditions of the Slave in private law from Augustus to Justinian, Cambridge : University Press, 1908.
- Burchell, E.M. and Hunt, P.M.A.      South African Criminal Law and Procedure. Volume 1. General Principles of Criminal Law, 2nd edition by E.M. Burchell, J.R.L. Milton and J.M. Burchell, Cape Town : Juta, 1990.
- Burchell, J.M.      See Burchell, E.M. and Hunt, P.M.A.
- Burge, W.      Commentaries on Colonial and Foreign Laws. Volume 1, New edition by A. W. Renton and G. G. Phillimore, London : Sweet and Maxwell, 1907.
- Cambridge History of the British Empire  
See Walker, E.A. (ed.)

- Cloete, H. The History of The Great Boer Trek, edited by W. Broderck-Cloete, London : John Murray, 1899.
- Cory, G.E. The Rise of South Africa. Volumes 1 and 2, London : Longmans Green, 1913.
- Davis, D.B. The Problem of Slavery in Western Culture, New York : Oxford University Press, 1988.
- De Kiewiet, C.W. A History of South Africa : Social and Economic, London : Oxford University Press, 1942.
- De Kok, V. Those in Bondage, London : George Allen and Unwin, 1950.
- De Mist, J.A. The Memorandum of J.A. De Mist, translated into English by M. Jeffreys, Cape Town : Van Riebeeck Society, 1920.
- De Reus, G.C.K. Gechichtlicher Uerblick der Administrativen, Rechtslichen und Finanzellen Entwicklung der Nederl ndische Ostindische Compahnie, Batavia : 's-Gravenhage, 1894.



De Wet, J.C. and Swanepoel, H.L.

Die Suid-Afrikaanse Strafbreg, 4de uitgawe deur  
J.C. de Wet, Durban : Butterworth, 1985.

Donkin, R.S.

Letter Book of Sir Rufane Shaw Donkin, edited by  
J.B. Scott, Port Elizabeth : The Historical  
Society of Port Elizabeth and Walmer, 1970.

Dugard, J.

Human Rights and the South African Legal Order,  
New Jersey : Princeton University Press, 1978.  
South African Criminal Law and Procedure. Volume  
4. Introduction to Criminal Procedure. Cape town :  
Juta, 1977.

Elphick, R.

Khoikhoi and the Founding of White South Africa,  
Johannesburg : Ravan Press, 1985.

Elphick, R. and Giliomee, H. (eds.)

The Shaping of South African Society 1652-1840,  
2nd edition, Cape Town : Maskew Miller Longman,  
1989.

Esmein, A.

History of Continental Criminal Law and Procedure,  
translated into English by J. Simpson, London :  
John Murray, 1914.

Fisher, R.B.

The Importance of the Cape of Good Hope as a Colony to Great Britain, independently of the Advantages it possesses as a Military and Naval Station and the Key to our territorial Possessions in India, London : Cadell and Davies, 1814.

Foucault, M.

Discipline and Punish : The Birth of the Prison, translated into English by A. Sheridan, Harmondsworth : Penguin Books, 1986.

Gie, S.F.N.

See Blommaert, W. and Gie, S.F.N.

Giliomee, H.

See Elphick, R. and Giliomee, H. (eds.)

Grotius, Hugo

On the Law of war and peace, three books, wherein are set forth the law of nature and nations, translated by Francis W. Kelsey et al, Oxford : Clarendon Press, 1925.

Introduction to Dutch Jurisprudence, with an appendix containing selections from the notes of W. Schorer, translated by A.F.S. Maasdorp, 3rd ed., Cape Town : Juta, 1903.

Hahlo, H.R. and Kahn. E.

South Africa : The Development of its Laws and Constitution, London : Stevens; Cape Town : Juta, 1960.

The South African Legal System and its Background, Cape Town : Juta, 1968.

Halloran, L.

Proceedings, including Original Correspondence, Official Documents, Exhibits, &c., &c., duly attested and authenticated as correct Extracts from the Records of the Court of Justice at the Cape of Good Hope, in a Criminal Process for a Libel, instituted at the suit of Lieut.-Gen. the hon. H.G. Grey, and by order of the right hon. the Earl of Caledon, London : T. Harper, 1811.

Hattersley, A.F.

The First South African Detectives, Cape Town : Howard Timmins, 1960.

Heese, J.A.

Slagtersnek en sy mense, Cape Town, 1973.

Henry, J.

Report on the Criminal Law at Demarara and in the Ceded Dutch Colonies, London : Butterworths, 1821.

Hockly, H.E.

The Story of the British Settlers in South Africa,  
2nd ed. - Cape Town : Juta, 1957.

Hosten, W.K., et al

Introduction to South African Law and Legal History, Durban : Butterworth, 1980.

Huber, U.

The Jurisprudence of My Time. 2 Volumes.  
Translated into English by P. Gane. Durban :  
Butterworth, 1939.

Hunt, P.M.A.

The South African Criminal Law and Procedure.  
Volume 2, Common-Law Crimes, 2nd ed. by J.R.L.  
Milton, Cape Town : Juta, 1990.  
See also Burchell, E.M. and Hunt, P.M.A.

Hunter, W.A.

Roman Law, 4th edition, London : Sweet and  
Maxwell, 1903.

Jenkyns, H.

British Rule and Jurisdiction Beyond the Seas,  
Oxford : Clarendon Press, 1902.

Kahn, E.

See Hahlo, H.R. and Kahn. E.

- Kilpin, R.                    The Romance of a Colonial Parliament, London :  
Longmans, Green and Company, 1930.
- Le Cordeur, B.A.            The Politics of Eastern Cape Separatism 1820-1854,  
Cape Town : Oxford University Press, 1981.
- Macmillan, W.M.           The Cape Colour Question, Cape Town : Balkema,  
1968.
- Malherbe, V.C.            See Newton-King, S. and Malherbe, V.C.
- Manning, H.T.            British Colonial Government after the American  
Revolution 1782-1820, London : Oxford University  
Press, 1933.
- Marais, J.S.              The Cape Coloured People 1652-1937, Johannesburg :  
Witwatersrand University Press, 1968.
- Matthaeus, A.            On Crimes : A Commentary on Books XLVII and XLVIII  
of the Digest. Volume I, edited and translated  
into English by M.L. Hewett and B.C. Stoop, Cape  
Town : Juta, 1987.

- Mentzel, O.      Description of the Cape of Good Hope. Volume 2.  
Translated into English by H. J. Mandelbrote, Cape  
Town : Van Riebeeck Society, 1925.
- Mills, A.      Colonial Constitutions, London, 1856.
- Milton, J.R.L.      See Burchell, E.M. and Hunt, P.M.A.  
See also Hunt, P.M.A.
- Moyle, J.B.      Imperatoris Iustiniani Institutioneum, Oxford :  
Clarendon Press, 1923.  
The Institutes of Justinian, 5th edition, Oxford  
: Clarendon Press, 1913.
- Muller, C.F.J.      Die Britse Owerheid en die Groot Trek, Pretoria en  
Kaapstad : H & R Academica, 1977.
- Newton-King, S. and Malherbe, V.C.      The Khoikhoi Rebellion in the Eastern Cape 1799-  
1803, Cape Town : Centre for African Studies,  
University of Cape Town, 1981.
- Phillimore, G.G.      See Burge, W.

Pieres, J.B.            The British and the Cape 1814-1834, in The Shaping of South African Society, Richard Elphick and Hermann Giliomee (eds.), 2nd ed., Cape Town : Maskew Miller Longman, 1989.

Renton, A.W.           See Burge, W.

Roby, H.J.            An Introduction to the Study of Justinian's Digest, Cambridge : University Press, 1886.

Ross, R.              Cape of Torments : Slavery and Resistance in South Africa, London : Routledge & Kegan Paul, 1983.

Scott, J.B. (ed.)      See Donkin, R.S.

The Shaping of South African Society 1652-1840

See Elphick, R. and Giliomee, H. (eds.)

Sohm, R.              The Institutes. Translated into English by J.C. Ledlie, 3rd edition, Oxford : Clarendon Press, 1907.

Swanepoel, H.L.       Die Leer van 'Versari in re Illicita' in die Strafreë, Kaapstad : Nasionale Pers, 1944.  
See also De Wet, J.C. and Swanepoel, H.L.

Teeters, N.K.         See Barnes, H.E. and Teeters, N.K.

- Theal, G.M.      The History of South Africa from 1795 to 1872.  
Volume 5, The Cape Colony from 1795 to 1828, Cape  
Town : Struik, 1964.
- Van de Sandt, B.J.      Rules, Orders & C. touching the forms and manner  
of proceeding in Civil and Criminal Cases, Cape  
Town : A.S. Robertson, 1835.
- Van der Linden, J.      Institutes of Holland, translated into English by  
H. Juta, Cape Town : Juta, 1891.
- Van Leeuwen, S.      Commentaries on Roman-Dutch Law. 2 Volumes,  
translated into English by J. G. Kotzé. London :  
Stevens and Haynes, 1881-1886.
- Van Zyl, D.H.      Geskiedenis van die Romeins-Hollandse Reg, Durban  
: Butterworth, 1979.
- Venter, H.J.      Die Geskiedenis van die Suid-Afrikaanse  
Gevangenisstelsel 1652-1958, Kaapstad : H.A.U.M.,  
1959.
- Visagie, G.G.      Regspleging en Reg aan die Kaap van 1652 tot 1806,  
Kaapstad : Juta, 1969.



- Voet, Johannes      The Selective Voet : being the Commentary on the Pandects (Paris Edition of 1829) by J. Voet; and the supplements to that work by Johannes van der Linden (1756-1835), 8 volumes , translated with explanatory notes of all South African reported cases by Percival Gane, Durban : Butterworths, 1955-1958.
- Von Bar, C.L.      A History of Continental Criminal Law. Translated into English by T. S. Bell, Boston : Little, Brown, and Co., 1916.
- Walker, E.A. (ed.) The Cambridge History of the British Empire. Volume 8, South Africa, Rhodesia and the Protectorates, 2nd ed., Cambridge : University Press, 1963.
- Walker, E.A.      A History of South Africa, 3rd ed., London : Longmans Green, 1964.  
The Great Trek, London : Adam and Charles Black, 1938.
- Wessels, J.W.      History of the Roman-Dutch Law, Grahamstown : African Book Company, 1908.

Wijkema, A.            Die Invloed van Nederland en Nederlands-Indië op die ontstaan en ontwikkeling van die regwese in Suid Afrika, Amsterdam : Swets & Zeitlinger, 1934.

4.3. Periodical Articles and Serial Publications

Albino, R.C.            See Mathews, A.S. and Albino, R.C.

Anonymous            *Roman-Dutch Law of Evidence* (1902) 19 SALJ 377.

Bodenstein, H.D.J.    *English influences on the Common Law of South Africa* (1919) 36 SALJ 337.

Dugard, J.            *1570 revisited : An examination of South African Criminal Procedure and the Hiemstra Proposals* (1970) 87 SALJ 410.

Beinart, B.            Roman Law in South African Practice. Inaugural Lecture delivered before the University of Cape Town on 6 November 1951. Cape Town : Oxford University Press, 1952.

Bisschop, W.R.        *Modern Roman-Dutch Law* (1908) 24 LQR 157.

- De Wet, J.C. *Nederlandse Reg in Suid-Afrika tot 1806* (1958) 21 THRHR 165.  
*Die Resepsie van Romeins-Hollandse Reg in Suid-Afrika* (1958) 21 THRHR 84, 95-97, and 162.  
*Die Romeins-Hollandse Reg in Suid-Afrika na 1806* (1958) 21 THRHR 239.  
*Die Ou Skrywers in Perspektief* (1975) 16 Codicillus 1.
- Fryer, A.K. *The Government of the Cape of Good Hope 1825-1854. Archives Year Book for South African History* (1964) 1.
- Giliomee, H.B. *Die Administrasietydperk van Lord Caledon 1807-1811. Archives Year Book* (1966) 2.
- Graham Botha, C. *The Common and Statute law at the Cape of Good Hope during the 17th and 18th Centuries* (1913) 30 SALJ 293.  
*Criminal Procedure at the Cape during the 17th and 18th Centuries* (1915) 32 SALJ 319.  
*Sir John Andries Truter* (1918) 35 SALJ 135.  
*The Public Prosecutor of the Cape Colony up to 1828* (1918) 35 SALJ 399.  
*The Early Inferior Courts of Justice at the Cape* (1921) 38 SALJ 406.

*Jonkheer Gerard Beelaerts van Blokland* (1922) 39  
SALJ 147.

*The Early Influence of the English Law upon the  
Roman-Dutch law in South Africa* (1923) 40 SALJ  
396.

*Early Legal Practitioners of the Cape Colony*  
(1924) 41 SALJ 255.

*An 18th Century Law Library* (1935) 53 SALJ 177.

Hattersley, A.F.

*Early days of judicial circuits in South Africa*  
(1958/9) 13 Africana Notes and News, 127.

Hugo, A.M.

The Cape Venacular. Inaugural Lecture dated 11 May  
1970. Cape Town : University of Cape Town, 1970.

Hutchison, D.B.

See Visser, D.P. and Hutchison, D.B.

Kotzé, J.G.

*History of Roman-Dutch Law : A Review* (1909) 26  
SALJ 387.

Letts, M.

*The Administration of Criminal Law in Flanders,  
Chiefly in the Fifteenth Century* (1926) 43 SALJ  
381.

Mathews, A.S. and Albino, R.C.

*The Permanence of the Temporary : An examination of the 90 and 180 Day Detention Laws* (1966) 83 SALJ 24.

Middleton, A.J. *A Cape Memoir* (1970) 11(2) Codicillus 44.

Naudé, S.D. *Willem Cornelis Boers. Archives Year Book for South African History* (1950) 2.

Pauw, P. *Die Romeins-Hollandse reg in oënskou* (1980) (1) Tydskrif vir die Suid-Afrikaanse Reg 32.

Pont, D. *The Transplantation of the Roman Dutch Law into South Africa* (1971/2) Speculum Juris 3.

Reyburn, H.A. *Studies in Cape Frontier History The Critic* January and April 1935.

Ross, R. *The Rule of Law at the Cape of Good Hope during the Eighteenth Century* (1980) 9 Journal of Imperial and Commonwealth History 5.

Sampson, Victor *Sources of Cape Law* (1887) 4 Cape Law Journal 109

Scott, S. *Our legal heritage : the period 1652-1795* (1978) 125 De Rebus Procuratoriis 250.

- St. Leger, F.Y.      *Sir W.W. Burton* (1935) 52 SALJ 260.
- Stock, J.L.W.      *The New Statutes of India at the Cape* (1915) 32 SALJ 328.
- Strauss, S.A.      *The Development of the Law of Criminal Procedure since Union. Acta Juridica* (1960) 157.
- Sturgis, J.      *Anglicisation at the Cape of Good Hope in the early nineteenth century* 1982 (XI) Journal of Imperial and Commonwealth History, 5.
- Swanepoel, H.L.      *Oor die Resepsie van die Romeins-Hollandse Reg in Suid Afrika* (1958) Acta Juridica 7-26.
- Van Huyssteen, L.F.      *Kaapse strafregspraak vanaf ongeveer 1807-1827 : 'n voorlopige evaluering* (1989) South African Journal of Criminal Justice 287.
- Van Jaarsveld, F.      *Die Veldcornet en sy aandeel in die opbou van die Suid-Afrikaanse Republiek tot 1870. Archives Year Book for South African History* (1950) 2.
- Van Zyl, C.H.      *The Batavian and the Cape Plakaten* (1807) 24 SALJ 137; and (1908) 25 SALJ 246.

Van Zyl Smit, D.      *Public Policy and the Punishment of Crime in a Divided Society - A Historical Perspective on the South African Penal System* Crime and Social Justice 21/22.

Venter, P.J.          *Landdros en Heemrade 1682-1827* Archives Year Book for South African History (1940) 2.

Visser, D.P.          Daedalus in the Supreme Court - The Common Law Today. Inaugural Lecture dated 1 May 1985. Cape Town : University of Cape Town, 1985.

Visser D.P. and Hutchison, D.B.  
*Legislation from the Elysian Fields : The Old Authorities Settle an Old Dispute* (1988) 105 SALJ 619.

#### 4.4. Unpublished Theses

Arnott, H.W.          *The Administration of Lt.-Gen. Sir John Francis Cradock, governor 1811-1814*, Unpublished MA Thesis, University of South Africa (R.U.C.), 1937.

Bromily, W.P.          *The Administration of Sir Rufane Shawe Donkin*, Unpublished MA Thesis, University of South Africa (R.U.C.), 1931.

- Elks, K.D. *Crime, Community and police in Cape Town 1825-1850*, Unpublished MA Thesis, University of Cape Town, 1986.
- Fine, H.B. *The History of the Cape Supreme Court and its role in the development of judicial precedent during the period 1827-1910*, Unpublished LL.M Thesis, University of Cape Town, 1986.
- Fryer, S.W.J. *Die Instelling van die Rondgaande Hof (Kommissie van Regspleging)*, Unpublished MA Thesis, University of Stellenbosch, 1949.
- Johnstone, A.M. *The Judicial aspects of the 1823 Commission of Inquiry to the Cape of Good Hope*, Unpublished MA Thesis, University of South Africa, 1936.
- Joubert, D.C. *Die Slawe-opstand van 1808 in die koe-Tijgerberg en Swartland distrikte*, Unpublished MA Thesis, University of South Africa, 1946.
- Van der Merwe, P. *Regsinstellings en die Reg aan die Kaap van 1806 tot 1834*, Unpublished LL.D. Thesis, University of the Western Cape, 1984.



Van Rensburg, J.      *Die Toestand van die Slawe aan die Kaap 1806-1836,*  
Unpublished MA Thesis, University of Cape Town,  
1935.

Van Wyk, M.          *Die Ontwikkeling van die Gevangeniswese in die*  
*Kaapkolonie vanaf 1806 tot en met unifikasie 1910,*  
Unpublished Ph.D. Thesis, University of South  
Africa, 1964.

Visagie, G.G.        *Regsveranderinge aan die Kaap tussen 1823 en 1838,*  
Unpublished MA Thesis, University of Cape Town,  
1954.

#### 4.5. Newspapers

The Colonist	14 December 1827.
	3 January 1828.
	17 January 1828.
	20 May 1828.
	3 June 1828.
	8 July 1828.

ANNEXURE "A"

LIST OF CASES HEARD BY THE "BLACK CIRCUIT OF" 1812 AS  
GROUPED BY THE FISCAL IN THE FIRST LIST

ANNEXURE "A"

LIST OF CASES HEARD BY THE "BLACK CIRCUIT" OF 1812 AS GROUPED BY  
THE FISCAL IN THE FIRST LIST

A. GRAAFF-REINET

- I. Gerrit Lindeque on a charge of inhumanly beating the Khoi Ruiter Jonker. There being no appearance of ill-treatment and the complaint of the missionaries being unproved, the accused was discharged.

B. UITENHAGE

- I. Barbara Janse Van Rensburg, wife of Martinus Oosthuizen, on a charge of having ill-treated her slave Rosina and especially the mother of Rosina, Spasie, to such a degree that she died the next day. The death of both the slaves being accounted for, the accused was acquitted, but was fined twenty-five rixdollars for failing to report the death of the slave Spasie.
2. Theunis Botha on a charge of gross ill-usage committed on the slave Dina and also of Dina's daughter, the latter of whom was said to have died in consequence. The accused was 'discharged from all further prosecution respecting the complaint of Dina but nevertheless, as well as with regard to the treatment of the said slave as of the other people in his service, he should remain specially recommended to the vigilance of the landdrost and further that he the defendant in consequence of the neglect he has been guilty of with respect to the burying of the slave child Rachel shall be condemned in a penalty of twenty-five rixdollars.
3. Nel on a charge of shooting a Khoi. As there was great difficulty in identifying the person of the accused, several of the inhabitants being named Nel, and as one of the principal witnesses Jan was absent, the landdrost was ordered to investigate the case

and transmit the result. The accused proved to be Pieter Willemse Nel, Snr. The commissioners referred the case to the full bench at Cape Town.

4. Frederik Rensburg, Isaac Niekerk and Hendrik Rensburg on a charge of having murdered two Khoi while they were out on commando against the Kaffirs. The case was referred to the second list as the event took place before 1803.
5. The patrol of Gabriel Stoltz on a charge of having shot two Khoi. Case referred to His Majesty's fiscal, with instructions to the landdrost to bring the business if possible to a further degree of elucidation.
6. Jacobus Scheepers on a charge of the death of the Khoi Jan Blaauw. The case was postponed to enable the prosecutor to examine the retroacts of the Court of Justice. This having been done, the case was brought before the full bench at Cape Town where the accused were acquitted.
7. Pieter Erasmus on the charge of the death of a Khoi named Zwartbooy. The accused was acquitted.
8. Johannes Strydom on a charge of shooting a Khoi under apprehension. Referred to the full bench at Cape Town where the accused was sentenced to death. An appeal against the sentence was made to the Court of Appeal. The prosecutor, in forwarding his report of these cases to the governor, made a strong plea for mercy on behalf of the prisoner in consequence 'of his [the prisoner's] personal character and example of humanity, as well as in consideration of the circumstances under which he committed the act'. The appeal was upheld by the Court of Appeal and the sentence of the Court of Justice was reversed.
9. Johannes Calits and Willem Pretorius on a charge of having murdered the Khoi Gezwind. The death of Gezwind having been proved to be

accidental, the accused were acquitted and discharged from all further blame.

C. GEORGE

- I. Elizabeth Kampher, wife of Hendrik Van Staden, and Ignatius Terblanche, accused of ill-treatment of the Khoi Hendrik Uithaalter and his daughter Catryn Steven. The court found that 'the first accused in causing the punishment to be inflicted on Catryn had gone further than an ordinary and allowable domestic correction and had given way to her anger, and the second accused had stretched his obedience to his mother-in-law too far'. The first accused was fined fifty rixdollars and the second accused ten rixdollars, with condemnation of the first accused in three-quarters and the second accused in one-quarter of the costs.
2. Martha Ferreira on a charge of having caused the death of the slave Steyn, the Khoi Griet, Koosje, Abigail, Manissa and Rachel, and the wounding or maiming of the Khoi Lys, Hendrik and Klaas. The accused was well known in the district as 'Kwaade Martha', on account of the severity with which she treated her servants. In her fits of temper she belaboured them with anything she could lay hands on, sjamboks, sticks, handspikes, stones, broomsticks and ox-yokes. One witness stated that as a result of the beatings she had received, her whole body was covered with stripes and scabs and that her arms were so putrified 'that her presence was insufferable'. Another stated that she had lost an eye through being beaten with a sjambok while 'her hand was crooked and contracted from warding off the blows'. After a lengthy hearing the case was referred to the full bench at Cape Town, where the accused was sentenced to a fine of one hundred rixdollars.

**ANNEXURE "B"**

**ABSTRACT OF CASES DECIDED BY THE COURT OF CRIMINAL APPEALS**

**1810 - 1827**

1. Fleischakker v Deputy Fiscal.<sup>1</sup>

On 3 May 1810 the appellant was found guilty of the attempted rape of a child who was between eight and nine years of age. He was sentenced to be severely scourged and was banished for life from the colony. On 23 July 1810 his appeal was dismissed.

2. Halloran v Fiscal.<sup>2</sup>

The appellant, Laurence Hynes Halloran, was a chaplain attached to the sea and land forces at the cape. He was accused of having libelled the lieutenant-governor. At the commencement of the trial on 9 August 1810, Halloran took an exception to the jurisdiction of the Court. In the first instance he argued that the judges were incapable of understanding the language in which the the alleged libels were written. In the second instance he argued that the Articles of Capitulation only applied to the burghers and inhabitants of the colony, and that British subjects were not subject to the jurisdiction of the local courts. In the third instance, he argued that if British subjects were subject to the local laws, his position as chaplain attached to the land forces was punishable by a Court Martial for disrespect shown to a superior officer. Finally he contended that as chaplain attached to the naval service, he was subject to a Naval Court Martial. The Court of Justice dismissed the exception and Halloran took the decision on appeal. On 21 September 1810 the appeal was dismissed.<sup>3</sup> The trial continued before the Court of Justice and on 10 December 1810. Halloran was found guilty oh having atrociously injured the lieutenant-governor by composing, writing, and publishing defamatory libels. Halloran was also found guilty of making offensive and slanderous expressions in court, in contravention of the proclamation dated 3 September 1792.<sup>4</sup> He was sentenced to be banished for life from the colony. He was also fined fifty rixdollars for contravening the proclamation. On 17 December 1810 Halloran lodged an appeal with the Court of Criminal Appeals. The appeal was dismissed on 30 January 1811.

3. Sarah v Fiscal.<sup>5</sup>

On 28 March 1811 the appellant was found guilty of the murder of a child aged two. She was sentenced to be bound to a stake and strangled to death. On 8 April 1811 she lodged an appeal against her conviction with the Court of Criminal Appeals. Kekewich was of the opinion that the case against the appellant had not been sufficiently proved, and he found that there was an absence of

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1. CJ 522, p. 5-608; CJ 803, p. 540-552; and GH 54/1, p. 137.

2. GH 47/2/1 and GH 47/2/2. See also GH 47/1/1, p. 9 *et seq.*

3. The assessors' opinions appear in GH 47/2/1, p. 56-78 and p. 419-421; and in GH 47/2/2, p. 352-353.

4. Kaapse Plakkaatboek, Deel 4, p. 108-109.

5. GH 47/2/3, p. 1-317; GH 49/8, p. 378-664; and GH 47/1/1, p. 24. *et seq.*

*malice propense*.<sup>6</sup> Alexander concurred and pointed out that the appellant had consistently denied that she had drowned the child, which demonstrated an absence of malicious intention.<sup>7</sup> He also pointed out that the only evidence connecting the appellant with the offence was contained in her confession. In his opinion the confession had to be totally excluded or totally admitted. On 13 August 1811 the court upheld the appeal and reversed the sentence.

4. Landdrost of the Cape District v Stadler and Another.<sup>8</sup>

The respondents were charged with ill-treating a slave named Patientie, who died as a result. On 14 November 1811 the Court of Justice rejected the prosecutor's claim. On 19 November 1811 the prosecutor lodged an appeal against the sentence with the Court of Criminal Appeals. Alexander was of the opinion that the conduct of the two respondents had been most reprehensible and that they had accelerated the death of the deceased.<sup>9</sup> Under the circumstances, he recommended that the sentence awarding costs against the landdrost should be reversed as a punishment against the respondents. Kekewich was of the opinion that the evidence did not demonstrate any wilful and malicious intention on the part of the respondents. However he felt that they were guilty of gross negligence, accompanied with cruelty and ill-treatment.<sup>10</sup> He recommended that the sentence awarding costs against the landdrost should be reversed and that the respondents be ordered to pay all the costs of the proceedings. On 27 June 1812 the court dismissed the appeal, but reversed that part of the sentence whereby the prosecutor was ordered to pay the costs. The court ordered the respondents to pay all the costs incurred in the court below and on appeal.

5. Cloete v Landdrost of Swellendam.<sup>11</sup>

On 23 July 1812 the appellant was found guilty of fatally shooting a Khoi girl named Mietje. He was sentenced to be brought to the place of execution at the drostdy of Swellendam, where he was to kneel down before a heap of sand. His eyes were to be blindfolded and his neck exposed. Thereupon a sword was to be passed over his head by the executioner. Thereafter he was to be banished for life from the colony. On 25 July 1812 the appellant lodged an appeal against his sentence with the Court of Criminal Appeals. On 5 October 1812 the appeal was dismissed. Before the sentence was affirmed, the governor stated in court that he had no hesitation in confirming the sentence.<sup>12</sup> He pointed out that if the Court of Justice had pronounced the death sentence on the appellant, he

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6. GH 54/1, p. 142.

7. GH 54/1, p. 463-464.

8. GH 47/2/4, p. 1-371; GH 47/2/5; and GH 47/1/1, p. 29.

9. GH 47/2/5. (The Volume lacks pagination)

10. Op. cit.

11. GH 47/2/4, p. 372-419; and GH 47/1/1, p. 34 *et seq.*

12. Letter from Sir John Cradock to Earl Bathurst dated 15 April 1814. Records of The Cape Colony, Volume 10, p. 7.



would have sanctioned the verdict. He stated that if the prosecutor had entered an appeal against the sentence, he would have reversed it because the evidence clearly demonstrated that the appellant had wilfully murdered a defenceless woman who was holding an infant in her arms when she was shot. The governor went on to state that 'impartial justice, without difference or exception, should be dispensed to all classes'.<sup>13</sup> He concluded his address by stating that : <sup>14</sup>

'The Law is the same to all - the rich or poor man, the powerful or defenceless, the master or the slave. The European, Colonist, or Hottentot are all alike within its protection or punishment and it never for a moment will be in contemplation what is the rank or situation of the offender.'

6. Cloete v Landdrost of Stellenbosch.<sup>15</sup>

On 3 September 1812 the appellant was found guilty of using violence against his neighbour. He was sentenced to pay a fine of 1,000 rixdollars; one half for the benefit of the Public School Fund, and the other half for the benefit of the poor of the Reform Church at Stellenbosch. On 8 September 1812 the appellant lodged an appeal against his conviction with the Court of Criminal Appeals. On 8 May 1813 the appeal was dismissed.

7. Fiscal v Vermaak.<sup>16</sup>

On 24 June 1813 the respondent was found guilty of having excessively punished his slave. He was sentenced to pay a fine of fifty rixdollars for the relief of the poor, and he was cautioned to exercise restraint when punishing his slaves. On 23 June 1813 the fiscal lodged an appeal against the sentence with the Court of Criminal Appeals. Kekewich was of the opinion that the respondent's slave received no more than the ordinary correction which owners of slaves were entitled to inflict.<sup>17</sup> He accordingly recommended that the appeal should be dismissed. However Alexander was of the opinion that if the slave had died, the respondent would very likely have received the death sentence. He accordingly recommended that the sentence should be reversed and that the slave should be sold.<sup>18</sup> The governor rejected Kekewich's opinion and on 29 September 1813 he upheld the appeal and reversed the sentence. The court ordered that the slave be sold for the account of the respondent, and was never again to come into his or his relations possession. The respondent was ordered to pay the fine of fifty rixdollars and the costs.

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13. Op. cit., p. 8.

14. Loc. cit.

15. GH 47/2/8, p. 1-648; and GH 47/1/1, p. 45 *et seq.*

16. GH 42/7/1, p. 1-239; and GH 47/1/1, p. 50 *et seq.*

17. GH 54/1, p. 168.

18. GH 54/1. p. 169.

8. Strydom v Beelaerts van Blockland.<sup>19</sup>

On 20 July 1813 the appellant was found guilty of the murder of a Khoi and was sentenced to death. It appears that a roving gang of Khoi had been causing trouble in the Winterhoek district. The field-cornet had directed the inhabitants of the district to form patrols in order to find the gang. They were instructed to shoot them without bothering to apprehend them. The appellant, who had been informed of the order, came upon a Khoi in the early hours of the morning. He bound the Khoi with a handkerchief and then shot him. In his defence the appellant stated that he was following orders and that the Khoi had managed to get free before he shot him. He also stated that he had acted in self defence. On 26 July 1813 the appellant lodged an appeal against his conviction with the Court of Criminal Appeals. Both the assessors recommended that the sentence should be affirmed.<sup>20</sup> However the governor was not prepared to accept their advice. On 13 September 1813 the appeal was upheld and the sentence of the Court of Justice was reversed.

9. Young and Others v Fiscal.<sup>21</sup>

On 31 August 1813 the appellants were found guilty of unlawfully importing East India goods into Table Bay in contravention of an Act of the British Parliament dated 24 March 1809, read together with an Order in Council dated 12 April 1809. The Act and Order in Council were published by proclamation in the Government Gazette on 29 September 1809. The Court ordered that the ship, together with the cargo, be forfeited and confiscated. On 6 September 1813 the appellants lodged an appeal against the sentence with the Court of Criminal Appeals. Both the assessors were of the opinion that the appeal should be dismissed, and Kekewich stated that in his opinion there was a total absence of evidence on the part of the appellants to support their defence.<sup>22</sup> On 4 September 1815 the court dismissed the appeal, save and except for costs, which were to be paid out of the proceeds received from the sale of the ship and cargo.

10. Louw and Another v Fiscal.<sup>23</sup>

On 19 March 1814 the first appellant, Johannes Louw, was found guilty of having given a verbal order to a commando of Khoi to pursue a gang of wandering Khoi and to kill them. The first appellant was also found guilty of malversations in his office as field-cornet. The second appellant, Jan Harmse Steenkamp, was found guilty of having given a similar order to that of the first

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19. GH 47/2/8 (a); and GH 47/1/1, p. 41 *et seq.*

20. GH 54/1, p. 191-194.

21. GH 47/2/6, p. 1-257; GH 49/5, p. 993-997; and GH 47/1/1, p. 44 *et seq.*

22. GH 54/1, p. 213-214, and p. 466.

23. GH 47/2/11, p. 1-837; GH 49/6, p. 102-205; and GH 47/1/1, p. 47 *et seq.*

appellant, and of giving further orders that after the the Khoi had been killed, their bodies should be ill-treated. The second appellant was also found guilty of having attempted to kill a Khoi. The first appellant was sentenced to forfeit his office as field-cornet and to be forever incapable of serving his country in any honourable employment. He was also sentenced to be confined on Robben Island for one year at his own expense. The second appellant was sentenced to be banished from the colony for five years and from the district of Tulbagh for life. On 2 April 1814 the appellants lodged an appeal against their sentences with the Court of Criminal Appeals. Alexander was of the opinion that the first appellant's sentence should be affirmed in so far as it incapacitated him from holding public office. However he recommended that the imprisonment should be remitted. Alexander felt that the appellant had made an error in judgment and had not acted with a 'malignant propensity of mind'.<sup>24</sup> With regard to the second appellant, Alexander found that there were no grounds for the mitigation of his punishment. According to Alexander, the second appellant appeared to be a man of 'violent and brutal character', who entertained 'general prejudices most injurious to humanity'.<sup>25</sup> Kekewich was of the opinion that the facts had been fully substantiated and recommended that the sentence should be affirmed. However, in view of the 'humane and peaceable conduct of the first appellant', which was supported by certificates from the magistrates of his district, he recommended that the sentence be mitigated.<sup>26</sup> However the governor was not prepared to accept the recommendations that the first appellant's sentence should be mitigated. On 18 April 1815 he dismissed the appeal and upheld the sentence of the Court of Justice.

11. Visagie and Others v Landdrost of Tulbagh.<sup>27</sup>

On 25 August 1814 the first and second appellant, Barend Visagie and Isaak Fredrik Visagie, were found guilty of the murder of two Khoi, who had stolen one of their cattle. The third appellant, the Khoi Bastiaan, was found guilty of being an accomplice. The first two appellants received the death sentence, and the third accused was sentenced to be confined in irons and to labour on the public works for three years. On 6 September 1814 the appellants lodged an appeal against their convictions with the Court of Criminal Appeals. Alexander was of the opinion that the first appellant's conviction should be reversed.<sup>28</sup> He pointed out that both the English and the Civil Law provided that if a felon could not be apprehended by means other than death, his death in the effort to apprehend him was considered to be 'justifiable homicide'.<sup>29</sup> In the case of the second and third appellants, Alexander recommended

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24. GH 54/1, p. 196-199, at p. 197.

25. Op. cit., p. 199.

26. GH 54/1, p. 209-210.

27. GH 47/2/9; G. H. 47/2/10; GH 47/1/1, p. 52.

28. GH 54/1, p. 205.

29. Loc. cit.

that their convictions and sentences should be affirmed because the deceased woman had been secured in a hole and was 'amenable to justice'. He pointed out that she could have been forced out of the hole by the use of smoke. In his opinion, no one had the right to put the most atrocious offender to death without positive authority if it was possible to render him amenable to justice by other means.<sup>30</sup> Kekewich was of the opinion that the evidence clearly proved an 'atrocious and deliberate act of murder'.<sup>31</sup> He considered the sentence of death to be appropriate, and stated that it would serve as an example and 'save the lives of many unfortunate beings now wantonly sacrificed to the passions of their arbitrary and capricious masters'.<sup>32</sup> However the governor was not prepared to follow the advice of the assessors. On 18 April 1815 he reversed the convictions and amended the sentences. The first and second appellants were declared to be guilty of culpable homicide, and the third appellant was acquitted. The first appellant was sentenced to be confined in irons and to labour on the public works for life. The second appellant was sentenced to be confined in irons and to labour on the public works for ten years.

12. Janssen v Landdrost of Graaff Reinet.<sup>33</sup>

On 23 March 1815 the appellant was found guilty of the murder of his slave Lea and was sentenced to death. On 22 June 1815 the appellant lodged an appeal against his sentence with the Court of Criminal Appeals. In his grounds of appeal the appellant argued that he did not intend to kill Lea, and that his confession amounted to an admission of involuntary homicide. Alternatively, the appellant argued that the murder of a slave did not warrant the death sentence. In support of the latter contention, he annexed an extract from the New Statutes of India and referred to a resolution dated 21 March 1766.<sup>34</sup> In terms of the resolution, the death sentence was no longer applicable when a master killed his slave. In his opinion, Alexander dealt firstly with the admissibility of appeals based on a confession.<sup>35</sup> He came to the conclusion that this was a question which the Court of Appeals had to determine and not the Court of Justice. He recommended that the appeal should be admitted. Kekewich disagreed with this contention and was of the opinion that the appeal was inadmissible.<sup>36</sup> Alexander rejected the argument that the New Statutes of India were in force at the Cape, but accepted the

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30. GH 54/1, p. 206.

31. Op. cit., p. 212.

32. Loc. cit.

33. GH 47/2/12, p. 350-699; and GH 47/1/1, p. 57 *et seq.*

34. GH 54/4, p. 52-58.

35. GH 54/1, p. 207-208 and p. 231-236; and GH 47/2/12, p. 418-419, p. 421-427, p. 438-439, and p. 442-448.

36. GH 54/1, p. 220; and GH 47/2/12, p. 432-433. See also the opinion dated 30 December 1815 in GH 54/1. (Lacks pagination)

argument that the offence constituted culpable homicide and not murder. Kekewich was of the opinion that the New Statutes of India were received and acknowledged as law in the colony. However the impasse was resolved because the respondent failed to file his reply in time. It now remained for the court to decide whether the appellant was entitled to succeed by default or whether the case should be referred back to the Court of Justice with instructions to impose a sentence other than death. Both the assessors recommended that the case should be referred back to the Court of Justice, although Kekewich had some reservations. On 6 February 1816 the court referred the case back to the Court of Justice with instructions to impose a sentence other than death. On 17 May 1816 the appellant made an application to the Court of Appeals for an order releasing him from detention, on the grounds that the prosecutor had failed to bring the case before the Court of Justice for sentencing as directed by the Court of Appeals. On 10 June 1816 the Court of Appeal granted the appellant's application and annulled the conviction.

13. Louw v Fiscal.<sup>37</sup>

On 18 May 1815 the appellant was found guilty of assaulting and wounding his employee with a stick. Louw was sentenced to three months imprisonment. On 3 June 1815 he lodged an appeal against the sentence with the Court of Criminal Appeals. Alexander was of the opinion that the sentence should be affirmed.<sup>38</sup> Kekewich was of the opinion that the appellant had received a very lenient sentence and he recommended that it should be affirmed.<sup>39</sup> On 4 September 1815 the governor dismissed the appeal.

14. Theron v Fiscal.<sup>40</sup>

On 13 July 1815 the appellant was found guilty of treacherously wounding the messenger of the court in the fiscal's office. Theron was sentenced to be confined on Robben Island for twelve months. On 24 July 1814 he lodged an appeal against his sentence with the Court of Criminal Appeals. Alexander was of the opinion that the evidence clearly supported the conviction. He drew attention to the rule that in both the Civil and the English Law, offences committed in the courts of justice were 'doubly punished'.<sup>41</sup> Alexander added that the penalty for 'a blow given in an English court of justice upon circuit or in the King's Bench was punishable by the loss of the offender's arm'. However he recommended that the punishment should be mitigated. On 12 February 1816 the governor dismissed the appeal. However in consequence of the lengthy period of confinement already

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37. GH 47/2/6, p. 258-370 and GH 47/1/1, p. 56 *et seq.*

38. GH 54/1, p. 250.

39. GH 54/1, p. 215.

40. GH 47/2/12, p. 1-349 and G. H. 47/1/1, p. 58 *et seq.*

41. GH 54/1, p. 221-223.

undergone by the appellant, the court ordered his discharge on the following conditions; that he furnish a personal surety for 500 Rixdollars; that he obtain the sureties of two persons for 250 Rixdollars each; and that he be bound over to keep the peace for twelve months.

15. Van Graan v Landdrost of Tulbagh.<sup>42</sup>

On 2 September 1816 the appellant was convicted of an attempt to murder his wife. He was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be banished for life from the colony. On 14 September 1816 he lodged an appeal against the sentence with the Court of Criminal Appeals. Alexander was of the opinion that the sentence should be affirmed.<sup>43</sup> He regretted that the prosecutor had failed to call for the death sentence in view of the cruel nature of the attack. He noted that the appellant had used a razor to viciously assault his wife when she was under the landdrost's protection. On 30 December 1816 the court dismissed the appeal.

16. Vermaak v Fiscal.<sup>44</sup>

On 30 January 1817 the appellant was found guilty of arbitrarily obstructing the passage of a public road. He was also found guilty of disobedience to the commands of the landdrost of Stellenbosch and of disrespect shown to him. The appellant was sentenced to pay a fine of 500 Rixdollars for the benefit of the district treasury. On 3 February 1817 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals.<sup>45</sup> Alexander was of the opinion that the evidence had proved that the road was a public road and that the court below had correctly rejected the appellant's argument that he had a servitude over it.<sup>46</sup> On 13 May the court dismissed the appeal.

17. Hoffman v Fiscal.<sup>47</sup>

On 30 January 1817 the appellant was found guilty of making disrespectful allegations against the members of the Insolvent Estates Chamber in contravention of the placaat dated 3 September 1792. The appellant was sentenced to imprisonment for one month at his own expense, and had to pay a fine of 50 Rixdollars. On 3

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42. GH 47/2/13, p. 202-406 and GH 47/1/1, p. 71 *et seq.*

43. GH 54/1, p. 225-227.

44. GH 47/2/13, p. 1-201; GH 47/2/20, p. 1-359; and GH 47/1/1, p. 63 *et seq.* and p. 75 *et seq.*

45. On 19 October 1815 the appellant took an exception to the qualification of the prosecutor. The exception was dismissed by the Court of Justice. A subsequent appeal to the Court of Criminal Appeals was dismissed on 24 June 1816.

46. GH 47/2/20, p. 359.

47. GH 47/2/14, p. 303-485 and GH 47/1/1, p. 75 *et seq.*

February 1817 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. Kekewich pointed out that the appellant had made a most abject and humiliating apology to the members of the chamber. He was of the opinion that that the Court of Justice was entitled to determine how far their dignity was insulted by the subsequent pleadings of the appellant. However he considered the punishment to be unduly severe.<sup>48</sup> On 27 November 1817 the court dismissed the appeal.

18. Neyhoff v Fiscal.<sup>49</sup>

On 27 March 1817 the appellant, who was captain of the night watchmen, was found guilty of assisting domestic thefts by receiving forage from a slave, who had stolen it from his master. He was sentenced to be severely flogged in prison by the constables. He was also declared to be unworthy of continuing in his employment as captain of the night watchmen and ineligible to serve the public in any honourable position. On 31 March 1817 the appellant lodged an appeal against his sentence with the Court of Criminal Appeals. On 9 June 1817 the court dismissed the appeal.

19. Munnings v Fiscal.<sup>50</sup>

On 24 April 1817 the appellant was found guilty of harbouring a deserter on board his ship in contravention of a proclamation dated 16 October 1795.<sup>51</sup> He was also found guilty of indiscreet and insulting conduct towards the commissioners of the court. The appellant was sentenced to pay a fine of 500 Rixdollars for contravening the proclamation and 1,000 Guilders for indiscreet and insulting conduct. On 28 April 1817 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. Kekewich was of the opinion that the evidence against the appellant was defective, and he recommended that the sentence should be reversed.<sup>52</sup> With regard to the conviction for indiscreet and insulting conduct, Kekewich pointed out that it was directed against the fiscal in his capacity as prosecutor and not against his magisterial authority. He accordingly considered the fine to be severe. Alexander was also of the opinion that the sentence should be reversed because the evidence against the appellant was based on hearsay.<sup>53</sup> With regard to the conviction for indiscreet and insulting conduct, Alexander was of the opinion that it was a distinct offence and that the appellant should have been given an opportunity to defend himself. Under the circumstances he recommended that the sentence should be reversed. However the governor was not prepared to follow the advice and on 28 November 1817 the appeal was dismissed.

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48. GH 54/1, p. 258.

49. GH 47/2/17, p. 1-242 and GH 47/1/1, p. 76 *et seq.*

50. GH 47/2/17, p. 243-386 and GH 47/1/1, p. 77 *et seq.*

51. Kaapse Plakkaatboek, Deel 5, p. 13-14

52. GH 54/1, p. 253-254.

53. GH 54/1, p. 459-462.

20. Shortt v Fiscal.<sup>54</sup>

On 24 April 1817 the appellant was found guilty of harbouring prize negroes in contravention of a proclamation dated 7 June 1814. He was also found guilty of harbouring a slave in contravention of a proclamation dated 22 August 1794. The appellant was sentenced to pay a fine of 500 Rixdollars for harbouring the prize negroes, and fourteen days imprisonment for harbouring a slave. On 28 April 1817 he lodged an appeal against the sentence with the Court of Criminal Appeals. Alexander was of the opinion that the sentence should be affirmed because the appellant's conduct was illegal under the 'strict letter of the law'.<sup>55</sup> However he recommended that after the sentence had been confirmed, the governor should remit the punishment. On 28 November 1817 the governor dismissed the appeal.

21. Blay v Fiscal.<sup>56</sup>

On 2 June 1817 the appellant was found guilty of the attempted rape of a girl who was between eleven and twelve years of age. He was sentenced to be severely scourged and banished for life from the colony. On 25 August 1817 he lodged an appeal against the sentence with the Court of Criminal Appeals. Kekewich was of the opinion that the girl's evidence was admissible, even though it was not given under oath.<sup>57</sup> However he pointed out that the evidence would have been rejected under English Law. In viewing the evidence as being admissible, he was satisfied that the case against the appellant had been fully proved. He recommended that the scourging should be remitted because the rape was not actually perpetrated and the girl had not sustained any 'violent or material injury'. On 28 November 1817 the governor dismissed the appeal.

22. Vermaak v Landdrost of Stellenbosch.<sup>58</sup>

On 10 July 1817 the appellant was found guilty of ill-treating a slave who subsequently died. The appellant was sentenced to be confined in prison for six weeks. The court ordered that the slave, who had lodged the complaint, be judicially sold under the condition that he was never again to come under the power of the appellant or his family. On 14 July 1817 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. Alexander was of the opinion that the sentence should be affirmed.<sup>59</sup> Kekewich felt that the deceased must have been

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54. GH 47/2/14, p. 97-302 and GH 47/1/1, p. 77 *et seq.*

55. GH 54/1, p. 259-261.

56. GH 47/2/15, p. 1-187 and GH 47/1/1, p. 87 *et seq.*

57. GH 54/1, p. 255-257.

58. GH 47/2/15, p. 188-480 and GH 47/1/1, p. 85 *et seq.*

59. GH 54/1, p. 262.



severely treated, but stated that there were no grounds for laying a charge of murder against the appellant.<sup>60</sup> He pointed out that the law allowed a master to punish his slave and could administer up to 39 strokes. However the 'dispensers of justice had to take care that the punishment was not inflicted with wanton brutality'. He recommended that the sentence should be affirmed. On 28 November 1817 the court dismissed the appeal.

23. Theron v Landdrost of Graaff Reinet.<sup>61</sup>

On 3 November 1817 the appellant was found guilty of the theft of an ox in a trial conducted before the board of landdrost and heemraden. He was sentenced to be severely scourged and to be confined on Robben Island for two years. On 3 January 1818 the appellant applied for leave to appeal directly to the Court of Criminal Appeals. The court admitted the appeal because of the special circumstances of the case.<sup>62</sup> On 30 May 1818 the court dismissed the appeal, but reduced the sentence of imprisonment to one year. However on account of the lengthy period of confinement already undergone by the appellant, and in view of the great expense to which he had been put, the governor ordered his immediate discharge.

24. Shortt v Fiscal.<sup>63</sup>

On 20 February 1818 the appellant was found guilty of having composed, written, and published defamatory libels. He was also found guilty of behaving in an improper manner towards the commissioners of the court in contravention of the placaat dated 3 September 1792. The appellant was sentenced to be banished for life from the colony. He was also sentenced to pay a fine of 50 Rixdollars for contravening the placaat. The appellant lodged an appeal against his conviction with the Court of Criminal Appeals. On 30 May 1818 the court dismissed the appeal. However it appears that the governor subsequently remitted the banishment.<sup>64</sup>

25. Tiel v Fiscal.<sup>65</sup>

On 2 April 1818 the appellant, who was a lieutenant in the armed services of the King of the Netherlands, was found guilty of causing the death of a soldier by wounding him with his sword. He was sentenced to be taken to the usual place of execution and

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60. GH 54/1, p. 269-270.

61. GH 47/2/20, p. 360-679 and GH 47/1/1, p. 88 *et seq.*

62. The Court of justice had refused to grant the accused bail pending his trial in Graaff Reinet. The appellant had then made a successful application for bail to the Court of Criminal Appeals.

63. GH 47/2/21, p. 1-291.

64. Letter from the Fiscal to the Colonial Secretary, dated 28 November 1818. Records of The Cape Colony, Volume 12, p. 69.

65. GH 47/2/14, p. 1-96; GH 47/1/1, p. 93 *et seq.*; and CJ 811, p. 98-136.

to be delivered to the executioner. There to be made to kneel before a heap of sand with his eyes blindfolded. His head to be severed from his body with a sword. The corpse to be placed in a coffin and interred in the usual burying place. Prior to his conviction, the appellant took an exception to the jurisdiction of the Court of Justice. He argued that the offence, if any, was of a military nature and that he was subject to trial before a Court Martial in Batavia or Holland. On 11 December 1817 the Court of Justice rejected the exception. On 15 December 1817 the appellant lodged an appeal with the Court of Criminal Appeals. On 6 January 1818 the Court dismissed the appeal. The appellant was subsequently pardoned on the condition that he served one year in prison.

26. Hitchcock & Another v Fiscal.<sup>66</sup>

On 6 April 1818 the two appellants, William Hitchcock and Michiel Cogan, and ten others, were found guilty of forming a plan for an armed desertion, which included violence and resistance. In the second instance they were found guilty of deserting with arms and ammunition and of committing force, both by taking the boat of the under-sheriff and by surprising and overpowering the ship Elizabeth which lay at anchor off Robben island. In the third instance they were found guilty of violence on board the ship. In the fourth instance they were found guilty of armed resistance against the inhabitants of the colony and against a Commando which had been sent after them. In the fifth instance they were found guilty of committing violence on the person of Jan Harmse Niemand. In the sixth instance they were found guilty of the theft of horses and cattle. In the seventh instance they were found guilty of shooting an ox and heifer, and of seizing a pack horse. The second appellant was also found guilty of forgery and deceit. The appellants were sentenced to death. On 1 June 1818 they lodged an appeal against their sentences with the Court of Criminal Appeals. Kekewich drew attention to the fact that the first appellant had been handed over to the military authorities for trial, after charges had been preferred against him by the civil authorities.<sup>67</sup> He was therefore of the opinion that the appellant had been absolved from further prosecution and could not be 'legally reclaimed'. He stated that he was not acquainted with any precedent either in the English or the Dutch Law that warranted such an proceeding. With regard to the second appellant, Kekewich pointed out that his offence was coupled with an act of escape from prison, where he was serving a term of imprisonment for the crime of forgery which by Roman Law was punishable with death.<sup>68</sup> However he felt that that it would be *summa injuria* to execute the appellant merely because the law annexed the punishment of death. He suggested that the principles of justice and humanity would be better served if the appellant's sentence was commuted to transportation for life. On 3 November

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66. GH 47/2/19, p. 1-1659 and GH 47/1/1, p. 101 *et seq.*

67. GH 54/1, p. 279-280, at p. 279.

68. Loc. cit.

1818 the governor altered the first appellant's sentence to transportation for life, and dismissed the second appellant's appeal. However the governor subsequently commuted the second appellant's sentence to transportation to New South Wales for life.<sup>69</sup>

27. De Vos v Landdrost of Stellenbosch.<sup>70</sup>

On 27 August 1818 the appellant was found guilty of unwillingness to do duty as a sergeant of fire-engines. He was sentenced to pay a fine of 500 Rixdollars or imprisonment for six months. On 4 November 1818 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. On 28 December 1818 the court dismissed the appeal.

28. Smit v Government Resident of Simonstown.<sup>71</sup>

On 22 July 1819 the appellant, who was a Dutch soldier, was found guilty of murder and was sentenced to death. On 3 August 1819 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. Kekewich recommended that the appeal should be allowed because the appellant had not been positively identified as the person who inflicted the wounds which killed the deceased.<sup>72</sup> He also drew attention to the contradictions in the evidence of the prosecution witnesses. On 6 December 1819 the court dismissed the appeal. However the appellant was subsequently pardoned on the condition that he served a term of imprisonment of one year.<sup>73</sup>

29. Zaayman v Landdrost of George.<sup>74</sup>

On 2 March 1820 the appellant was found guilty of murder and was sentenced to death. The evidence was of a circumstantial nature and the prosecutor had expressed some doubt as to the correctness of the verdict. On 6 March 1820 Zaayman lodged an appeal against the conviction with the Court of Criminal Appeals. On 29 July 1820 the governor upheld the appeal and reversed the sentence of the Court of Justice.

30. Smit v Fiscal.<sup>75</sup>

On 2 September 1820 the appellant and eleven others were found guilty of mutiny, murder, wounding, robbery, plunder, and desertion. The appellant was sentenced to death. The court further ordered that his head be severed from his corpse and exposed to the public view on a pole on Robben Island. On 7

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69. GH 47/2/19 and GH 47/1/1, p. 101 *et seq.*

70. GH 47/2/21, p. 160-445 and GH 47/1/1, p. 104 *et seq.*

71. GH 47/2/1, p. 422-440; GH 49/18; and GH 47/1/1, p. 107.

72. GH 54/1, p. 305-306, at p. 305.

73. CJ 813, p. 666-683.

74. GH 47/2/22, p. 1-804 and GH 47/1/1, p. 109 *et seq.*

75. GH 49/19, p. 171-181 and GH 47/1/1, p. 114 *et seq.*

September 1820 the appellant lodged an appeal against his conviction with the Court of Criminal Appeals. The appellant's advocate argued that there was insufficient proof to found a conviction on the charge of murder, and that the appellant was not given an opportunity to give evidence or to call witnesses in his defence. He attempted to introduce the written statements of the witnesses. Kekewich was of the opinion that the evidence was inadmissible and recommended that it should not be received.<sup>76</sup> He based his opinion on the ground that 'when a party is convicted on attainder, his testimony cannot be received, even on oath'.<sup>77</sup> The governor rejected the application to admit the evidence and on 20 November 1820 the appeal was dismissed.

31. Theron v Landdrost of Graaff Reinet.<sup>78</sup>

On 1 August 1821 the appellant was found guilty of trading with 'Hottentots and Kaffers' in contravention of a proclamation dated 16 June 1774.<sup>79</sup> He was sentenced to pay a fine of 25 Rixdollars and the merchandise, which was contained in three waggons, was confiscated. On 7 August 1821 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. On 13 November 1822 the court reversed that part of the sentence whereby the merchandise was declared to be confiscated. The court ordered that the merchandise be restored to the appellant, save and except certain gunpowder, lead and gun flints.

32. Fiscal v Cooke and Thompson.<sup>80</sup>

The respondents were charged with conducting illicit trade with the Empire of China in contravention of the Charter of the East India Company. When the sitting commissioner of the Court of Justice put the charge to the respondents, who were represented by an advocate, they took a peremptory exception to the legality of the proceedings (*lites ingressum*). The fiscal argued that the exception could not be raised until the inquiry had been completed and until an indictment had been drawn. On 18 March 1822 the commissioner dismissed the exception and ordered the fiscal to proceed with the inquiry, which was then completed. On 20 March 1822 the respondents appealed to the full bench against the decision dismissing the exception. On 28 March 1822 the full bench of the Court of Justice upheld the appeal. On 1 April 1822

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76. GH 49/19, p. 171-181, at p. 181.

77. Loc. cit.

78. GH 47/2/18, p. 1-304 and GH 47/1/1, p. 116 *et seq.* See also Records of The Cape Colony, Volume 20, p. 81-90 and Volume 25, p. 325-342. It appears that the appellant was subsequently found guilty of falsity and deceit on 5 March 1824. He was sentenced to be banished from the colony for seven years.

79. Kaapse Plakkaatboek, Deel 3, p. 90-94.

80. GH 47/2/18, p. 305-423; GH 47/2/24, p. 1-590; and GH 47/1/1, p. 134 *et seq.*

the fiscal lodged an appeal against the decision of the full bench with the Court of Criminal Appeals. The acting assessor, Thomas Rowles, drew attention to a discrepancy in articles 42, 43 and 109 of the Crown Trial, which dealt with the time when a peremptory exception had to be taken. In his opinion the exception had to be taken at the time when the accused was called upon to plead to a charge, and the matter had to be decided before further proceedings.<sup>81</sup> He accordingly recommended that the court should quash all the proceedings subsequent to the stage when the respondent's were called upon to plead to the charge. The peremptory exception should then be heard and the sitting commissioner should take a decision on it. The parties could then appeal against the decision. On 23 July 1822 the governor dismissed the appeal and quashed all the proceedings from the stage when the respondents were called upon to plead to the charge. He further ordered that the sitting commissioner had to hear and take a decision on the exception. The exception was subsequently heard and upheld. The fiscal then took the decision on appeal to the Court of Criminal Appeals. On 18 September 1823 the governor dismissed the appeal.

33. Sauer and Three Others v Landdrost of Graaff Reinet.<sup>82</sup>

On 2 April 1822 the first and second appellants, Anna Susanna Sauer and the slave Rosalyn, were found guilty of an attempt to procure an abortion and, after the infant had been born alive, of killing it. The first appellant had consented to the killing and the second appellant had committed the murder. The third appellant, the Khoi Philida, and the fourth appellant, the slave Mina, were found guilty of administering the means with which to procure the abortion. The third appellant was also found guilty of not preventing the second accused from killing the child and of concealing the crime. The first and second appellants were sentenced to be strangled to death. The third appellant was sentenced to be exposed to the public view under the gallows with a rope round her neck. Thereupon she was to be severely scourged and branded. Thereafter she was to be confined in irons and to labour on the public works for life. The fourth appellant was sentenced to be confined in the local prison for one year. On 6 April 1822 the first appellant lodged an appeal against her sentence with the Court of Criminal Appeals. On 4 June 1822 the governor upheld the appeal and reversed the death sentence. On 15 June 1822 the second, third and fourth appellants were granted leave to appeal. Kekewich was of the opinion that notwithstanding the contradictions contained in the second appellant's confession, she had deprived a living child of its life.<sup>83</sup> He accordingly recommended that the sentence should be affirmed. With regard to the third appellant Philida, Kekewich felt that

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81. GH 47/2/18, p. 410-412.

82. GH 47/2/23, p. 469-497; GH 49/22, p. 38-149; and GH 47/1/1, p. 119 et seq.

83. GH 54/1, p. 352-353.

the sentence was too severe. He recommended that the fourth appellant's sentence should be reversed. On 13 November 1822 the governor dismissed the second appellant's appeal. The third appellant's sentence was altered to hard labour on the public works for one year, and the fourth appellant's appeal was upheld. The governor subsequently suspended the second appellant's sentence pending the outcome of an application for a royal pardon. The third appellant's punishment was remitted in consequence of her lengthy confinement. The second appellant subsequently received a royal pardon on the condition that she served a five year term of imprisonment with hard labour.

34. Gebhardt v Landdrost of Stellenbosch.<sup>84</sup>

On 21 September 1822 the appellant was found guilty of the murder of a slave and was sentenced to death. On 25 September 1822 he lodged an appeal against his sentence with the Court of Criminal Appeals. On 22 November 1822 the appeal was dismissed.

35. Rebecca v Landdrost of Graaff Reinet.<sup>85</sup>

On 9 June 1823 the appellant was found guilty of infanticide and was sentenced to be strangled to death. On 21 July 1823 she was given leave to appeal to the Court of Criminal Appeals. Kekewich was of the opinion that there was not the slightest ground for reversing the sentence. He rejected the argument that the appellant was insane and stated that the act was dictated by a 'depraved and malignant heart'.<sup>86</sup> However on 20 April 1824 the governor upheld the appeal on the basis that the appellant was of unsound mind, both before and at the time when she committed the crime. He ordered that the appellant be placed in the care of the proper authorities.

36. Africander v Landdrost of The Cape District.<sup>87</sup>

On 22 September 1823 the appellant was found guilty of the murder of his concubine and was sentenced to death. On 26 September 1823 he lodged an appeal against the sentence with the Court of Criminal Appeals. The assessors were unanimous in their opinion that the 'guilt of the appellant is proved as clearly as it is possible for circumstantial evidence to substantiate the crime of murder'.<sup>88</sup> On 20 April 1824 the governor dismissed the appeal.

37. Bootsman and Six Others v Landdrost of Worcester.<sup>89</sup>

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84. GH 47/2/23, p. 1-468 and GH 47/1/1, p. 128 *et seq.*

85. GH 47/2/26, p. 210-360 and GH 47/1/1, p. 139 *et seq.*

86. GH 54/1, p. 369.

87. GH 47/2/26, p. 361-510 and GH 47/1/1, p. 144 *et seq.*

88. GH 54/1, p. 465.

89. GH 47/2/26, p. 1-209 and GH 47/1/1, p. 164 *et seq.*

On 23 October 1823 the appellants were found guilty of desertion, vagabondising in an armed gang, theft of sheep, violence with arms, and especially of aiding and abetting in the commission of violence on the wife of Veldman, after she had been wounded with an assegai by the first appellant. The first appellant was sentenced to death. The second and third appellants were sentenced to be exposed to the public view with ropes round their necks. Thereupon, together with the fourth, fifth, sixth, and seventh appellants, to be severely scourged. The second and third appellants to be branded. Thereafter the appellants to be confined in irons and to labour on the public works. The second and third appellants for life at Robben Island, the fourth and fifth appellants for five years at Robben Island, and the sixth appellants for five years at the Drostdy. On 27 July 1824 the appellants were given leave to appeal to the Court of Criminal Appeals. On 30 September 1824 the governor upheld the appeal and reversed the sentence of the Court of Justice.

38. Thomas & Three Others v Fiscal.<sup>90</sup>

On 22 December 1823 the first three appellants, Thomas, Africa, and Samuel, were found guilty of murder, and of committing repeated acts of housebreaking and theft, accompanied with violence. The appellants were sentenced to death. Afterwards their heads were to be severed from their bodies and displayed near the public road at Salt River. The fourth appellant, Anthonie, was found guilty of participating in the housebreaking and theft. He was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at Robben Island for 5 years. On 23 December 1823 the first three appellants lodged an appeal against their sentences with the Court of Criminal Appeals. The fourth appellant lodged his appeal on 27 December 1823. The assessors were of the opinion that the sentences of death imposed on the first three appellants should be affirmed. However they recommended that the remaining part of the sentence should be remitted as it was 'inapplicable to the present times'.<sup>91</sup> With regard to Anthonie, the assessors were of the opinion that the evidence had not sufficiently implicated him to warrant the punishment awarded. They recommended that he should receive corporal punishment and be confined in irons for twelve months to labour in the service of his master. On 20 April 1824 the court dismissed the Appeals. However the Governor subsequently remitted the scourging and branding imposed on Anthonie, and directed that he was to serve his confinement in irons in Swellendam or some other district.

39. Prosser v Landdrost of Uitenhage.<sup>92</sup>

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90. GH 47/2/25, p. 1-722 and GH 47/1/1, p. 149 *et seq.*

91. GH 54/1, p. 371.

92. GH 47/2/27, p. 170-519; GH 49/26; and GH 47/1/1, p. 152 *et seq.*

On 19 January 1824 the appellant was found guilty of the murder of a boy aged fourteen and was sentenced to death. On 23 January 1824 he lodged an appeal against the sentence with the Court of Criminal Appeals. The assessors were of the opinion that there was some doubt as to the appellant's guilt and recommended that the sentence should be reversed.<sup>93</sup> On 20 April 1824 the governor upheld the appeal and reversed the sentence of the Court of Justice.

40. Pajang v Landdrost of The Cape District.<sup>94</sup>

On 2 March 1825 the appellant was found guilty of treacherously wounding his master and was sentenced to death. On 10 March 1825 he lodged an appeal against his sentence with Court of Criminal Appeals. The assessors were of the opinion that there was no proof that the appellant intended to murder his master. They found that the appellant had been provoked and had attempted to escape in order to avoid punishment. The appellant's master had attempted to prevent him from escaping and had been slightly wounded with a sickle. The assessors felt that the punishment of death, which was prescribed by the Statutes of India, was not appropriate.<sup>95</sup> On 16 August 1825 the court dismissed the appeal. However the governor subsequently commuted the punishment to confinement in irons and labour on the public works for life. The governor further directed that the appellant was not to be informed until after he had been taken to the gallows with every expectation of being executed.

41. Thys v Deputy Landdrost of Clanwilliam.<sup>96</sup>

On 15 December 1825 the appellant was found guilty of the murder of his concubine and was sentenced to death. On 20 March 1826 he was granted leave to appeal to the Court of Criminal Appeals. On 21 June 1826 the appeal was upheld and the sentence of the Court of Justice was reversed.

42. Abdol & Another v Fiscal.<sup>97</sup>

On 20 December 1826 the appellants, Abdol and Saartje, were found guilty of receiving and concealing stolen goods. Abdol was sentenced to be severely scourged and to labour in irons on the public works for three years. Saartje was sentenced to be exposed to the public view with a board round her neck containing the words 'Receiver of Stolen Property', and to labour on the public works for three years. The appellants lodged an appeal against their sentences with the Court of Criminal Appeals, and on 4 April 1827 they applied to be released on bail pending the outcome of the appeal. On 11 April 1827 the governor granted the

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93. GH 54/1, p. 370.

94. GH 47/2/27, p. 1-159 and GH 47/1/1, p. 167 *et seq.*

95. GH 54/1, p. 407-408.

96. GH 47/2/28 and GH 47/1/1, p. 172 *et seq.*



application. However it appears that they remained in detention until 14 May 1827, when the governor upheld their appeal and ordered their immediate discharge from prison.

43. Lodewyk v Fiscal.<sup>98</sup>

On 24 April 1827 the appellant was found guilty of wounding his master and was sentenced to death. On 28 April 1827 he lodged and appeal against the sentence with the Court of Criminal Appeals. On 23 June 1827 the governor upheld the appeal and reversed the sentence of the Court of Justice.

44. M'Carthy v Fiscal and Ingram.<sup>99</sup>

The appellant, who was indentured to John Ingram, left Ingram and took up service with a Mr. Tait. Ingram lodged a complaint with the sitting commissioner, and on 14 September 1824 M'Carthy was ordered to return to Ingram or to work for eight days on the treadmill in the public prison. However he maintained that he had entered into an agreement with Ingram, whereby his indenture was transferred to Tait. He lodged an appeal against the commissioner's decree to the full bench of the Court of Justice. On 22 November 1824 the Court of Justice resolved to hold the appeal *in statu*. In September 1826 M'Carthy was imprisoned to work on the treadmill in compliance with the sitting commissioner's decree. He served the term of imprisonment and was released. On 22 March 1827 Ingram lodged a second complaint against him with the sitting commissioner. M'Carthy raised the *exceptio lites pendentis*. However the commissioner rejected the exception and sentenced him to a flogging. M'Carthy lodged an appeal against the rejection of the exception with the full bench. On 4 July 1827 the Court of Justice dismissed the appeal. On 8 May 1827 M'Carthy lodged an appeal against the decision to the Court of Criminal Appeals. On 4 July the governor upheld the appeal and quashed all the proceedings since 22 November 1824, when the Court of Justice resolved to hold the appeal *in statu*, and directed the Court of Justice to hear the appeal against the decree of the sitting commissioner dated 14 September 1824.

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97. GH 47/2/28 and G. H. 47/1/1, p. 175.

98. GH 47/2/28 and G. H. 47/1/1, p. 208 *et seq.*

99. GH 49/30, p. 360-390 and GH 47/1/1, p. 214 *et seq.*

1806 - - 1827

DIGEST OF CRIMINAL SENTENCES

ANNEXURE "C"

DIGEST OF CRIMINAL SENTENCES DEPOSITED IN THE  
OFFICE OF THE SECRETARY OF THE COURT OF JUSTICE  
TO WHICH THE 'FIAT' OF THE GOVERNOR IS AFFIXED;  
AND OF CRIMINAL CASES HEARD AND DETERMINED BY THE  
COURT OF CRIMINAL APPEALS : 1806-1827

1806

1. Attorney General v The Hottentots : Danger & Jan Valentyn, 18 February 1806, (C.J.801, p.39-47)  
The accused were found guilty of the theft of an ox at night in an open field. (Stock Theft)  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.
2. Attorney General v The Bastard Hottentot, Jurrie & The Slave, Daniel of the Cape, 22 February 1806, (C.J.801, p.7-19)  
The accused were found guilty of entering a Malay house with offensive arms and of treacherously wounding a Grenadier with crisses and knives. In addition, the first accused was found guilty of violently assaulting a Caffre of Justice who was in bed and could not defend himself.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 50 years, and the second accused for 25 years.
3. Attorney General v The Slave, Caprice from Madagascar, 22 February, 1806, (C.J.801, p.20-28)  
The accused was found guilty of wounding a person with a dangerous weapon.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
4. Landdrost of Swellendam v The Slave, Africa from Mocambique, 22 February 1806, (C.J.801, p.48-62)  
The accused was found guilty of murder and of cattle theft. (Stock Theft)  
Sentenced to be hanged by the neck until dead. The corpse to be conveyed to a place outside town and to be hung up until consumed by the elements and the birds of prey.
5. Attorney General v The Slave, Jack from Saint Helena, 6 March 1806, (C.J.801, p.63-75)  
The accused was found guilty of culpable homicide.  
Sentenced to be severely scourged.
6. Attorney General v The Female Slave, Candaca of the Cape, 13 March 1806, (C.J.801, p.224-240)  
The accused was found guilty of culpable homicide. Through neglect she allowed a infant, whom she was minding, to fall off a table. The infant died as a result.

The accused was sentenced to be severely scourged. The accused entered an appeal, but subsequently withdrew it.

7. Landdrost of Tulbagh v The Slave, Taguir from Bengal, 18 March 1806, (C.J.801, p.1-6)

The accused was found guilty of culpable homicide.

Sentenced to be confined in irons and to labour on the land for life.

8. Attorney General v The Slave, Phoebus from Bougies, 18 March 1806, (C.J.801, p.29-38)

The accused was found guilty of assaulting and wounding his master with a dangerous instrument.

Sentenced to be hanged by the neck until dead. The corpse to be conveyed to the spot behind the lines, where the same are usually exposed to the elements and the birds of prey.

9. Attorney General v The Hottentots : Damon & Jan Kroon, 21 March 1806, (C.J.801, p.200-210)

The accused were found guilty of the theft of cattle. (Stock Theft) The first accused was found to have been the actual perpetrator of the theft.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.

10. Attorney General v Isaak Jacobs, 16 May 1806, (C.J.801, p.76-79)

The accused, a Dienaar of the Jewish faith, who was 30 years of age and was born in Amsterdam, was found guilty of being in bed together with a young child named Christiaan.

The accused was sentenced to be banished for life from the colony.

11. Fiscal v Frederik Lodovicus Coenraad Stober, 12 June 1806, (C.J.801, p.80-86)

The accused, who was 42 years of age and was born in Baden, was found guilty of fraud and extortion.

The accused was sentenced to be banished for life from the colony.

12. Fiscal v Carel Hartman, 1 July 1806, (C.J.801, p.87-90)

The accused, who was 26 years of age and was born in Reichen Saxen, was found guilty of an attempted rape on a child aged three and a half.

The accused was sentenced to be banished for life from the colony.

13. Fiscal v The Female Bastard Hottentot, Regina, 10 July 1806, (C.J.801, p.91-94)

The accused was found guilty of harbouring a thief and a deserter, and of concealing stolen goods.

The accused was sentenced to be confined in prison for 4 weeks on a diet of bread and water.

14. Fiscal v The Hottentot, Roman, 10 July 1806, (C.J.801, p.211-223)

The accused was found guilty of the theft of a horse out of the

public fields. (Stock Theft)

The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

15. Landdrost of Stellenbosch v The Slaves : Amos & Frederick of the Cape, 10 July 1806, (C.J.801, p.193-220)

The first accused, who was approximately 23 of age, and the second accused, who was approximately 16, were found guilty of theft and assaulting and maiming on the highways.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for life, and the second accused for 5 years.

16. Fiscal v The Slave, Anthony from Mocambique, 10 July 1806, (C.J.801, p.121-135)

The accused was found guilty of receiving stolen goods for the purpose of concealing and selling same.

The accused was sentenced to be severely scourged. Thereafter to be confined in irons for 3 years and to labour with his master.

17. Fiscal v The Hottentot, Jan Kieviet Willemsse, 10 July 1806, (C.J.801, p.163-174)18.

The accused was found guilty of the theft of sheep and of being an accomplice to the theft of sheep. (Stock Theft)

The accused was sentenced to be severely scourged.

18. Fiscal v The Hottentot, Africander Dirk, 10 July 1806, (C.J.801, p.175-185)

The accused was found guilty of the theft of sheep. (Stock Theft)

The accused was sentenced to be severely scourged.

19. Fiscal v 1) The Hottentot, David ; 2) The Slave, Louis from Mocambique & 3) The Slave, Lindor from Madagascar, 10 July 1806, (C.J.801, p.186-199)

The accused were found guilty of the theft of cattle out of a kraal, after having cut the strap of the gate. (Stock Theft)

The accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works for 5 years.

20. Fiscal v The Slave, January from Baly, 15 July 1806, (C.J.801, p.118-129)

The accused was found guilty of vagabondising and of being armed with a knife. The accused was also found guilty of making violent resistance against the Officers of Justice and of wounding those who came to their assistance.

The accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

21. Fiscal v John Christiaan Pieterzen, 15 July 1806, (C.J.801, p.136-151)

The accused, who was 32 years of age and was born in Amsterdam, was found guilty of the murder of the maid Frederica. The accused was sentenced to be hanged by the neck until dead. The corpse to be transported to the gibbet outside town and buried there.

22. Fiscal v The Slaves : 1) Salomon of the Cape; 2) Salie from Timor; 3) Jephta of the Cape; 4) Fortuin of the Cape; 5) Adonis of the Cape; 6) Achilles of the Cape; 7) April of the Cape; 8) Africa of the Cape; 9) Jonas of the Cape & 10) Adam of the Cape, 15 July 1806, (C.J.801, p.95-117 & 130-46)

The first, second, and third accused were found guilty of a daring housebreaking. The fourth, fifth, sixth, seventh, eighth, and ninth accused were found guilty of being accomplices. The tenth accused was found guilty of concealing stolen goods and of habouring a slave who had deserted.

The first, second, and third accused were sentenced to be hanged by the neck until dead. The corpses to be conveyed outside the town and to be hung up until consumed by the elements and the birds of prey. The fourth and fifth accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the sixth, seventh, eighth, and ninth accused, to be tied to a stake and severely scourged. The fourth, fifth, sixth, seventh, and eighth accused to be branded. Thereafter the fourth, fifth, sixth, seventh, and eighth accused to be confined in irons and to labour on the public works. The fourth and fifth accused for life, the sixth and seventh accused for 25 years, and the eighth accused for 10 years. After receiving the scourging, the ninth accused to be returned to his mistress. The tenth accused was sentenced to witness the execution. Thereupon to be flogged by the Caffres of Justice. Thereafter to be confined in irons for 3 years and to labour with his master.

23. Fiscal v The Slaves : 1) July from Macassar; 2) Apollos from Ternate; 3) Matjang from Bougies; 4) Andries from Mauritius; 5) Toon & 6) Johannes Josephus Jansson, 17 July 1806, (C.J.801, p.147-192)

The first and second accused were found guilty of the theft of cattle and of housebreaking and theft. The third, fourth, fifth, and the sixth accused, who was 41 years of age and was born in Delft, were found guilty of being accomplices. They were also found guilty of vending, buying, and receiving the stolen goods.

The first and second accused were sentenced to be hanged by the neck until dead. The corpses to be conveyed to the gibbet outside town and hung up until consumed by the elements and the birds of prey. The third, fourth, and fifth accused were sentenced to be severely scourged. The third and fourth accused to be branded. Thereafter the third and fourth accused to be confined in irons and to labour on the public works. The third accused for 25 years, and the fourth for 15 years. After receiving the scourging, the fifth accused to be returned to his master. The sixth accused was sentenced to witness the execution. Thereafter he was to be banished for life from the colony.

24. Fiscal v The Hottentot, Jan Bloed, 24 July 1806, (C.J.801, p.152-162)  
The accused was found guilty of the theft of sheep. (Stock Theft)  
The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
25. Landdrost of Tulbagh v The Hottentot, Willem Thomas, 4 September 1806, (C.J.801, p.241-251)  
The accused was found guilty of the theft of sheep. (Stock Theft)  
The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour at the public works for 1 year.
26. Landdrost of Stellenbosch v The Hottentot, Hans Wildeman, 13 November 1806, (C.J.801, p.265-278)  
The accused was found guilty of daring violence and fighting.  
The accused was sentenced to be confined in irons and to labour on the public works for 2 years.
27. Landdrost of Tulbagh v The Hottentot, Platje Koeberg, 13 November 1806, (C.J.801, p.279-299)  
The accused was found guilty of wantonly playing with a gun he knew to be loaded. The death of 'one of his fellow creatures was the consequence'. (Culpable Homicide)  
The accused was sentenced to be confined in irons and to labour on the public works for 3 months.
28. Landdrost of Stellenbosch v The Hottentot, Jan Booy, 13 November 1806, (C.J.801, p.331-344)  
The accused, who was approximately 40 years of age, was found guilty of violently beating a woman. (At the time he was in a state of drunkenness and did not know what he was doing.). As a result she almost immediately died, but there was insufficient proof that the wounds actually caused her death.  
The accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 25 years.
29. Fiscal v The Hottentot, Hans Sambarra, 20 November 1806, (C.J.801, p.252-264)  
The accused, who was approximately 20 years of age, was found guilty of theft attended with violence and of breach of trust.  
The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.
30. Landdrost of Swellendam v The Slave, Jasmin of Bengal, 20 November 1806, (C.J.801, p.300-316)  
The accused, who was approximately 33 years of age, was found guilty of daring violence and of wounding the steward who had care of his master's place. However, there was insufficient proof that the wound caused the steward's death.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

31. Fiscal v The Hottentots : Afrikander Dirk & Booy, 20 November 1806, (C.J.801, p.317-330)

The accused were found guilty of the theft of sheep. (Stock Theft)  
\*The first accused had a previous conviction for a similar offence.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the second accused for 1 year.

32. Landdrost of Stellenbosch v Carel Jackele, 11 December 1806, (C.J.801, p.345-372)

The accused, who was 43 years of age and was born at Straalsond, was found guilty of theft.

The accused was sentenced to be severely scourged. Thereafter to be banished for life from the colony.

#### 1807

1. Landdrost of Tulbagh v The Hottentots : Witbooy & Jantje Spreeuw, 2 April 1807, (C.J.802, p.1-12)

The accused were found guilty of theft.

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 2 years, and the second accused for 1 year.

2. Fiscal v Johan Christian Bosse & Jan Without, 7 May 1807, (C.J.802, p.13-26)

The first accused, who was 36 years of age and was born at Oonaburg, and the second accused, who was 33 and was born at Munster, were found guilty of receiving gunpowder, which they knew to be stolen. The first accused, in particular, of purchasing and trading in it.

The first accused was sentenced to be severely scourged. After the second accused had witnessed the punishment, both accused were sentenced to be banished for life from the colony.

3. Fiscal v The Government Slave, Ambark from Madagascar, & The Free Man, Narcissus, from Mocambique, 7 May 1807, (C.J.802, p.27-37)

The first accused was found guilty of theft. The second accused was found guilty of appropriating stolen goods which he found and of making a profit from the sale of the goods.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years. The second accused was sentenced to be severely flogged by the Caffres of Justice.

4. Fiscal v The Hottentot, Knuppel, 7 May 1807, (C.J.802, p.38-51)

The accused, who was approximately 30 years of age, was found guilty of exceeding his duty and of fatally wounding a runaway slave. (Culpable Homicide)

The accused was sentenced to be severely flogged by the Caffres of



Justice. Thereafter to be confined in irons and to labour on the public works for 2 years.

5. Fiscal v The Slave, Martinus of the Cape, 7 May 1807, (C.J.802, p.52-65)

The accused, who was approximately 25 years of age, was found guilty of repeated theft. He was also found guilty of arming himself with a knife for the purpose of attacking and wounding those who were placed over him.

The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

6. Fiscal v The Chinese, Simon Arnold, 7 May 1807, (C.J.802, p.66-78)

The accused, who was 37 years of age and was born in Batavia, was found guilty of receiving and trading in stolen goods.

The accused was sentenced to be severely scourged. Thereafter to be banished for life from the colony.

7. Fiscal v The Slave, January from Mocambique, 7 May 1807, (C.J.802, p.92-102)

The accused was found guilty of vagabondising, theft, and robbery on the King's Highway.

The accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 25 years.

8. Fiscal v The Slave, Maart from Sambawa, 23 July 1807, (C.J.802, p.79-91)

The accused was found guilty of hostile resistance and of wounding one of the Servants of Justice in the discharge of his duty.

The accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.

9. Fiscal v The Slaves : 1) Lindor from Mocambique; 2) Spadille from Mocambique; 3) Jack from from Mocambique; 4) Solomon of the Cape; 5) Louis from Pondichery; 6) Adam of the Cape; 7) Jonas of the Cape; 8) Adam of the Cape; 9) Antony from Makhani; 10) Robert of the Cape; 11) Adonis from Mauritius; 12) Paris from Nias. 13) Vincent Ellinger; The Slaves : 14) Spacie of the Cape; 15) Manille from Batavia & 16) October from Bengal, 23 July 1807, (C.J.802, p.132-172)

The accused were found guilty of repeated theft accompanied with the forcing open of the window of a store house. They were also found guilty of receiving, buying, and concealing the stolen goods; and of making a profit from the same.

The accused, with the exception of the tenth and the twelfth, were sentenced to be taken to the place of execution. The first and second accused to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the third, fourth, fifth, sixth, seventh, eighth, ninth, eleventh, fourteenth, fifteenth, and sixteenth accused to be severely scourged. The first, second, third, fourth, fifth, sixth, and

seventh accused to be branded. Thereafter the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and eleventh accused to be confined in irons and to labour on the public works. The first and second accused for life, the third accused for 25 years, the fourth accused for 15 years, the fifth, sixth, and seventh accused for 10 years, and the eighth, ninth, and eleventh accused for 3 years. After witnessing the punishment, the thirteenth accused to be banished for life from the colony. After receiving their scourging, the fourteenth, fifteenth, and sixteenth accused to be restored to their masters. The tenth and twelfth accused were sentenced to be severely flogged in the prison by the Caffres of Justice.

10. Landdrost of Stellenbosch v Johan Hendrik Kok, 6 August 1807, (C.J.802, p.103-108)

The accused, who was 44 years of age and was born in Cape Town, was found guilty of excesses. He shouted at a woman with a knife in his hand and said; 'Dit is vir jou'.

The accused was sentenced to be confined in prison for 6 months.

11. Fiscal v The Female Slave, Minerva from Madagascar, 27 August 1807, (C.J.802, p.109-131)

The accused was found guilty of murdering her two children.

The accused was sentenced to be bound to a stake and strangled to death. The corpse to be conveyed to the gibbet outside town and buried.

12. Fiscal v The Hottentot, Jan Bastert, 12 November 1807, (C.J.802, p.173-191)

The accused was found guilty of violently ill-treating a woman.

The accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

#### 1808

1. Fiscal v The Hottentot, Jan Witbooy, 7 January 1808, (C.J.802, p.329-342)

The accused was found guilty of the theft of sheep. (Stock Theft)

The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour at the public works for 3 years.

2. Landdrost of Tulbagh v Willem Johannes Botha, 4 February 1808, (C.J.802, p.192-205)

The accused, who was 26 years of age and was born in the colony, was found guilty of fraud and forgery.

Sentenced to be severely flogged in the prison by the Servants of Justice. Thereafter to be banished from the colony for 10 years.

3. Fiscal v The Slaves : 1) January from Goa; 2) Martinus of the Cape; 3) October from Mocambique; 4) Esau of the Cape; 5) Francis from Mocambique; & 6) Cornelis, 18 February 1808, (C.J.802, p.240-277)

The accused were found guilty of wandering about armed, theft of

cattle, and of public violence. The first accused was also found guilty of housebreaking and theft.

The first accused was sentenced to be hanged by the neck until dead. The corpse to be conveyed to the gallows outside town and to be hung up until consumed by the elements and the birds of prey. The second accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the third, fourth, fifth, and sixth accused, to be severely scourged. The second accused to be branded. Thereafter the second, third, fourth, fifth, and sixth accused to be confined in irons and to labour on the public works. The second accused for 25 years, the third and fourth accused for 15 years, and the fifth and sixth accused for 5 years.

4. Fiscal v The Free Black, Africa (Alias America), 3 March 1808, (C.J.802, p.278-291)

The accused, who was 25 years of age and was born in the colony, was found guilty of insolence in the public streets and in houses. The accused was also found guilty of making violent resistance against the Constables of Justice and of wounding one of them.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 25 years.

5. Fiscal v The Free Black, Jaapie, 3 March 1808, (C.J.802, p.292-306)

The accused was found guilty of Theft.

\* The accused had a previous conviction for a similar offence. Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

6. Fiscal v 1) The Slave, Joemat of the Cape; 2) The Slave, Mentor of the Cape; 3) Hanna Davids (The wife of Anthony La Riese) & 4) Jan Van Litter, 3 March 1808, (C.J.802, p.308-328)

The accused were found guilty of repeated theft and of receiving and purchasing stolen goods.

The first, second, and third accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 3 years. The third accused to be confined in a secure place for 2 years, where she was to 'earn her bread with her hands'. The fourth accused, who was 45 years of age and was born in Delftshaven, was sentenced to witness the punishment. Thereafter to be banished for life from the colony.

7. Fiscal v The Slave, George from Mocambique, 3 March 1808, (C.J.802, p.343-356)

The accused was found guilty of the theft of money.

Sentenced to be severely scourged. Thereafter to be confined in irons for 3 years and to labour with his master.

8. Fiscal v The Slaves : Constantia of the Cape & Carries from Malacca, 3 March 1808, (C.J.802, p.357-373)  
The first accused was found guilty of theft, and the second accused of receiving stolen goods.  
The first accused was sentenced to be severely scourged and then returned to his master. The second accused was sentenced to be severely flogged in prison by the Caffres of Justice and then returned to his master.
9. Landdrost of Stellenbosch v The Slave, La Fleuer from Bougies, 3 March 1808, (C.J.802, p.487-570)  
The accused, who was approximately 45 years of age, was found guilty of the murder of the Hottentot Coba.  
Sentenced to be hanged by the neck until dead. The corpse to be conveyed to the gallows outside town and to be hung up until consumed by the elements and the birds of prey.
10. Landdrost of Stellenbosch v The Slaves : 1) Amos of the Cape; 2) August of the Cape; 3) Isaac of the Cape; The Female Slaves : 4) Regina of the Cape; 5) Roosje of the Cape; 6) Pamela of the Cape; 7) Debora of the Cape; 8) The Slave, Geduld from Mocambique; 9) The Female Slave, Catryn of the Cape; The Slaves : 10) Goliath from Mocambique & 11) Pompe of the Cape, 14 April 1808, (C.J.802, p.374-474)  
The first accused was found guilty of murder, vagabondising with arms, housebreaking, and repeated theft. The second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh accused were found guilty of theft, receiving stolen goods, and of assisting and concealing the first accused.  
The first accused was sentenced to be hanged by the neck until dead. The corpse to be conveyed to the gallows outside town and to be hung up until consumed by the elements and the birds of prey. The second and third accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fourth, fifth, sixth, eighth, ninth, and tenth accused, to be severely scourged. The second, third, and tenth accused to be branded. Thereafter the second, third, eighth, and tenth accused to be confined in irons and to labour on the public works. The second and third accused for life, the eighth accused for 3 years, and the tenth accused for 5 years. The fourth, fifth, sixth, and ninth accused to be confined in irons and placed in a secure place in order to earn their subsistence with their hands. The fourth accused for 10 years, the fifth and sixth accused for 5 years, and the ninth accused for 3 years. The seventh accused was sentenced to witness the execution. Thereafter to be severely flogged in prison by the Caffres of Justice and then returned to her mistress. The eleventh accused was sentenced to be severely flogged in prison by the Caffres of Justice and then returned to his master.
11. Landdrost of Stellenbosch v The Slave, Joseph from Mautitius & The Bastard Hottentot, Gerriit, 14 April 1808, (C.J.802, p.511-515)  
The first accused was found guilty of theft, and the second accused of receiving stolen goods.

The accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works for 5 years.

12. Fiscal v The Slaves : 1) Pieter of the Cape; 2) Joseph of the Cape & 3) Solomon from Mocambique, 14 April 1808, (C.J.802, p.526-539)  
The accused were found guilty of the theft of cattle. (Stock Theft)  
The accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons. The first accused for 5 years and to labour on the public works. The second and third accused for 2 years and to labour with their masters.
13. Landdrost of Stellenbosch v The Slave, Jack from Bengal, 14 April 1808, (C.J.802, p.540-549)  
The accused was found guilty of vagabondising and theft.  
Sentenced to be severely scourged and then returned to his master.
14. Fiscal v Otto Hendrik Barels, 28 June 1808, (C.J.802, p.474-477)  
The accused, who was 19 years of age and was born in the colony, was found guilty of forgery and uttering.  
Sentenced to be banished from the colony for 2 years.
15. Fiscal v The Slaves : Jephta of the Cape & La Fleur from Bengal, 7 July 1808, (C.J.802, p.206-239 & p.478-486)  
The accused were found guilty of housebreaking and theft from their master's store house.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 15 years, and the second accused for 10 years.
16. Fiscal v The Slaves : 1) Fredrik of the Cape; 2) Abraham of the Cape & 3) The Free Black, Christian, 24 September 1808, (C.J.802, p.550-598)  
The accused were found guilty of murder, housebreaking, and theft.  
The accused were sentenced to be hanged by the neck until dead. The corpses to be transported to the gibbet and, after decapitation, to be hung up by the legs. The heads to be secured on spikes. Thus to remain until consumed by the elements and the birds of prey.
17. Fiscal v 1) The Slave, Louis from Mauritius; 2) James Hooper, who was 26 years of age and was born in Ireland; 3) The Slave, Abraham of the Cape; 4) Michael Kelly, who was 24 years of age and was born in Ireland; The Slaves : 5) Adonis from Ceylon; 6) Cupido from Java; 7) Jephta of the Cape; 8) Jonas of the Cape; 9) Jan or Massok from Mocambique; 10) Tiberius of the Cape; 11) Fortuin from Mocambique; 12) Jacob from Mocambique; 13) Izaak from Mocambique; 14) Francois from Mocambique; 15) Francis from Mocambique; 16) Mey of the Cape; 17) Geduld from Mocambique; 18) Galant from Mocambique; 19) Goliath from Madagascar; 20) Spadille from Bougies; 21) Damon from Malabar; 22) Adonis of the Cape; 23)

The Hottentot, Dirk Jager; The Slaves : 24) Plato from Bengal; 25) Antony from Madagascar; 26) Kees of the Cape; 27) Abraham of the Cape; 28) Alexander from Madagascar; 29) Ontong from Baly; 30) Salomon from Mocambique; 31) Francis from Mocambique; 32) Zephir from Mocambique; 33) Willem of the Cape; 34) The Hottentot, Arie Abel; The Slaves : 35) Rotterdam from Timor; 36) Goliath from Mocambique; 37) Colair from Mocambique; 38) Jacob of the Cape; 39) Piquet of the Cape; 40) April from Mocambique; 41) Lodewyk of the Cape; 42) Mey from Mocambique; 43) Cupido from Mocambique; 44) January of the Cape; 45) August of the Cape; 46) Apollas of the Cape; 47) David of the Cape; 48) Jason of the Cape; 49) Abraham of the Cape; 50) Izaak of the Cape & 51) Abraham from Mocambique, 7 December 1808, (C.J.802, p.608-824)

The First seven accused were found guilty of High Treason, and the other accused in different degrees of Public violence.

The accused, with the exception of the forty-ninth, were sentenced to be brought to the usual place of execution and delivered to the executioners. The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, eleventh, sixteenth, seventeenth, twenty-first, twenty-second, twenty-fourth, and twenty-fifth accused to be hanged by the neck until dead. The corpses of the first, second, third, and fifth accused to be quartered and the quarters to be exposed upon stakes at the gibbets outside the town. The corpse of the fourth accused to be put into a coffin, brought to the gibbet, and buried underneath it. The corpse of the sixth accused to be conveyed to the district of Tygerbergen. The corpse of the seventh accused to be conveyed to the district of Zwartland, near the place of Petrus Gerhardus Louw. The corpse of the eighth accused to be conveyed to the district of Koebergen. The corpse of the ninth accused to be conveyed to the Poles. The corpses of the other accused, who were condemned to death, to be conveyed to the gibbet, in order there (the sixth, seventh, eighth, and ninth accused along the public road in the above-mentioned districts on stakes especially erected) to be hung in chains and to remain until consumed by the elements and the birds of prey.

The tenth, twelfth, thirteenth, eighteenth, twentieth, twenty-sixth, twenty-seventh, and twenty-eighth accused to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fourteenth, fifteenth, nineteenth, twenty-third, twenty-eighth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, and forty-seventh accused, to be severely scourged. The tenth, twelfth, thirteenth, fourteenth, fifteenth, eighteenth, nineteenth, twentieth, twenty-third, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, and thirty-seventh accused to be branded. Thereafter the tenth, twelfth, thirteenth, eighteenth, twentieth, twenty-sixth, twenty-seventh, twenty-ninth, thirtieth, and thirty-fourth accused to be confined in irons and to labour on the public works for life. The

fifteenth, twenty-third, and thirty-third accused to be confined in irons and to labour on the public works for 25 years. The fourteenth, nineteenth, twenty-eighth, thirty-first, thirty-second, thirty-fifth, thirty-sixth, and thirty-seventh accused to be confined in irons for 15 years and to labour with their masters. The thirty-ninth and fortieth accused to be confined in irons for 10 years and to labour with their masters. The thirty-eighth, forty-first, forty-second, and forty-fourth accused to be confined in irons for 5 years and to labour with their masters. The forty-third and forty-fifth accused to be confined in irons for 3 years and to labour with their masters. The forty-sixth, forty-eighth, fiftieth, and fifty-first accused were sentenced to witness the execution. Thereupon the the forty-sixth accused to be severely flogged in prison by the Caffres of Justice. Thereafter the accused to be returned to their masters. The forty-ninth accused was absolved from further prosecution and was released from detention.

\*Fiat Execution, with the following reservations :

*The first, second, third, sixth, and seventh accused to be hanged by the neck until dead. The corpse of the first accused to be brought to the poles, that of the second accused to the gibbet outside town, that of the third to the district of Koebergen, and that of the seventh to the district of Zwartland. The corpses to be hung in chains on stakes expressly erected along the public road in the above-mentioned districts.*

*The eighth, ninth, seventeenth, and twenty-fourth accused to be banished and confined to labour in irons for life on the public works at Robben Island, or elsewhere.*

*The eleventh, sixteenth, twenty-first, twenty-second, and twenty-fifth accused to be banished and confined to hard labour in irons for the term of 15 years on the public works at Robben Island, or elsewhere.*

*The tenth and thirty-fifth accused to be severely scourged and confined to hard labour in irons for 5 years on the public works at Robben Island, or elsewhere.*

*The eighteenth accused to be severely scourged and confined to hard labour in irons for 3 years on the public works at Robben Island, or elsewhere.*

*The nineteenth, twentieth, twenty-third, and thirtieth accused to be severely scourged and returned to their masters.*

*The remaining accused to witness the execution and then to be returned to their masters.*

*The execution of the sentence passed upon the fourth and fifth accused to be suspended until 'His Majesty's pleasure be known'.  
(Records of the Cape Colony, Vol.6, p.438-441)*

18. Fiscal v John Wilson, 15 December 1808, (C.J.802, p.599-607)

The accused, who was 16 or 17 years of age and was born in the county of Kent in England, was found guilty of theft.

Sentenced to be severely flogged in prison by the Constables of Justice. Thereafter to be banished for 1 year from the colony.

1. Fiscal v The Slave, August from Madagascar, 19 January 1809, (C.J. 803, p.1-18)  
The accused was found guilty of Murder.  
The accused was sentenced to be hanged by the neck until dead.  
The corpse to be conveyed to the gibbet outside town and to be hung up until consumed by the elements and the birds of prey.
2. Deputy Fiscal v The Slaves : 1) Adonis of the Cape; 2) Abraham of the Cape; 3) Bram of the Cape & 4) The Female Slave, Pamela of the Cape, 16 February 1809, (C.J.803, p.19-53)  
The accused were found guilty of theft of a considerable magnitude accompanied by housebreaking. They were also found guilty of receiving and concealing stolen goods.  
The first accused was sentenced to be hanged by the neck until dead. The corpse to be conveyed to the gibbet outside town and to be hung up until consumed by the elements and the birds of prey. The second and third accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fourth accused, to be severely scourged. The three accused to be branded. Thereafter to be confined in irons and to labour on the public works at Robben Island. The second and third accused for life, and the fourth accused for 20 years.
3. Landdrost of Stellenbosch v The Slaves : 1) Pedro of the Cape; 2) February from Mocambique; 3) Pluto from Mocambique; 4) Adam from Mocambique; & 5) David from Mocambique, 16 February 1809, (C.J.803, p. 54-78)  
The accused were found guilty of vagabondising, repeated theft, and housebreaking.  
\* The first and second accused had previous convictions for similar offences.  
The second accused was sentenced to be hanged by the neck until dead. The corpse to be conveyed to the gibbet outside town and to remain there until consumed by the elements and the birds of prey. The first accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the third, fourth, and fifth accused, to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works. The first accused for life, the third accused for 10 years, the fourth accused for 5 years, and the fifth accused for 3 years.  
\* Fiat Execution: *With remission of the punishment imposed on the second accused. The second accused to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be banished and confined to labour in irons on the public works at Robben island, or elsewhere, for life.*
4. Fiscal v The Hottentot, Jacob Booy, 16 February 1809, (C.J.803, p.158-171)  
The accused was found guilty of theft and of being an accomplice to a housebreaking.  
Sentenced to be severely scourged. Thereafter to be confined in



irons and to labour on the public works for 5 years.

\* Fiat Execution : *With the reservation that after being scourged the accused is to be liberated.*

5. Fiscal v The Hottentots, Bootsman & Goliath Platje, 16 February 1809, (C.J.803, p.172-180)  
The accused were found guilty of the theft of cattle. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
6. Fiscal v The Hottentot, Ruyter Beyer, 16 February 1809, (C.J.803, p.247-256)  
The accused was found guilty of the theft of sheep. (Stock Theft)  
Sentenced to be severely flogged in prison by the Caffres of Justice. Thereafter to be confined in irons and to labour on the public works for 6 months.
7. Fiscal v 1) Jacob Kloppers; 2) The Slave, Willem of the Cape; 3) The Slave, Keyser of the Cape; 4) The Slave, Willem of the Cape; 5) Isaac Basterd 6) Pierre Tanderzan 7) The Slave, Isaack of the Cape; 8) The Slave, Alexander of the Cape; 9) The Slave, Manille from Mocambique; 10) The Slave, Ned Edward from America & 11) The Chinese, Abdul, 10 April 1809, (C.J.803, p.181-217)  
The first accused was found guilty of buying and receiving stolen goods and of 'keeping correspondence with thieves'. The other accused were found guilty of thefts of different magnitudes.  
The first and second accused were sentenced to be severely scourged. Thereafter the first accused to be banished for life from the colony, and the second accused to be returned to his master. The third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh accused were sentenced to be severely flogged by the Caffres of Justice.
8. Fiscal v The Slave, Anthony from Madagascar, 10 April 1809, (C.J.803, p.79-92)  
The accused was found guilty of vagabondising with arms, making hostile resistance against the Caffres of Justice, and wounding one of them with the intention of taking his life.  
The accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.
9. Fiscal v The Slave, Appollos from Bengal, 10 April 1809, (C.J.803, p.93-108)  
The accused was found guilty of wounding the slave Louisa, with the intention of taking her life.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

10. Fiscal v Johan Christian Davids, 10 April 1809, (C.J.803, p.109-127)  
The accused, who was 35 years of age and was born in Cape Town, was found guilty of the theft of two slaves and of selling them. Sentenced to be severely scourged and branded. Thereafter to be banished for life from the colony.
11. Fiscal v The Slaves : 1) August from Batavia; 2) Lindor from Mauritius; 3) Primo from Batavia; 4) Africa of the Cape & 5) Appollos of the Cape, 10 April 1809, (C.J.803, p.128-146)  
The accused were found guilty of theft, accompanied with force, and assisting therein. They were also found guilty of making a profit from the sale of the stolen goods.  
The first, second, and third accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works for 10 years. After receiving the scourging, the third accused to be returned to his master. The fourth and fifth accused were sentenced to be flogged in prison by the Caffres of Justice and then to be returned to their masters.
12. Fiscal v The Slave, Spadille from Batavia, 10 April 1809, (C.J.803, p.147-157)  
The accused was found guilty of vagabondising with arms and of attempted wounding with a murderous intention. Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
13. Fiscal v Jacobus Kluysman, 10 April 1809, (C.J.803, p.218-233)  
The accused, who was 21 years of age and was born in the colony, was found guilty of repeated theft. Sentenced to be severely scourged. Thereafter to be banished from the colony for 10 years.
14. Fiscal v Jacobus Wolhuter, 22 June 1809, (C.J.803, p.234-246)  
The accused, who was 25 years of age and was a resident of Cape Town, was found guilty of theft. Sentenced to be severely scourged. Thereafter to be banished from the colony for 5 years.  
\* Fiat Execution : *With remission of the corporal punishment.*
15. Fiscal v Manuel De Mattos, 22 June 1809, (C.J.803, p.257-268)  
The accused, who was 33 years of age and was a sailor on board the Portuguese merchant ship Elizabeth, was found guilty of disobedience and of wounding with a murderous instrument. Sentenced to be severely flogged in prison by the Caffres of Justice. Thereafter to be banished for life from the colony.
16. Fiscal v Casper Lybold, 13 July July 1809, (C.J.803, p.269-280)  
The accused, who was 62 years of age and was born in the Dukedom of Furstenburg, was found guilty of domestic theft. Sentenced to be flogged in the prison by the Constables of Justice.

17. Fiscal v The Slave, Abraham of the Cape, 20 July 1809, (C.J.803, p.348-367)  
The accused was found guilty of violently beating the slave Mentor, which although declared mortal by accident, was still the cause of his death. (Culpable Homicide).  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 25 years.  
\* Fiat Execution : *After having suffered corporal punishment, the accused to be confined in irons and to labour on the public works for 1 year.*
18. Fiscal v The Bastard, Izaak Johannes Van Rooyen, 25 September 1809, (C.J.803, p.281-285)  
The accused was found guilty of arbitrarily taking possession of a farm and of insulting his magistrate.  
Sentenced to be confined in prison for 8 days on a diet of bread and water. Thereafter to be banished from the Cape District for 3 years.
19. Fiscal v The Free Blacks, Tobias of the Cape & Johannes Jepsen of the Cape, 12 October 1809, (C.J.803, p.310-347)  
The accused were found guilty of fraud, accompanied with theft.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 25 years, and the second accused for 10 years.
20. Landdrost of Graaff Reinet v The Hottentot, Witbooy, 12 October 1809, (C.J.803, p.368-387)  
The accused was found guilty of outrageous treatment and wounding Philip Diffenbacher.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *After receiving corporal punishment, the accused to be confined in irons for 6 months.*
21. Fiscal v Hendrik Willem Buyns & Magdalena Snijders, 26 October 1809, (C.J.803, p.286-289)  
The first accused, who was 28 years of age, was married to the second accused, who was 31 years of age. The accused were found guilty of receiving stolen goods.  
The first accused was sentenced to be confined on Robben Island for 3 months. The second accused was sentenced to be confined in prison for 2 months.
22. Fiscal v The Slave, Saul of the Cape, 30 November 1809, (C.J.803, p.290-309)  
The accused was found guilty of wounding the slave Eva, with the intention of depriving her of her life.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

1810

1. Fiscal v The Slaves : 1) Carolus of the Cape; 2) Abraham of the Cape & 3) Helena Abrahamse, Widow of Peter Hoefsmid, 22 January 1810, (C.J.803, p.388-411)  
The first and second accused were found guilty of theft. The third accused was found guilty of receiving stolen goods.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years. The second accused was sentenced to witness the punishment. Thereafter to be flogged in prison by the Caffres of Justice and then returned to his master. The third accused was sentenced to be confined in prison for 3 months.
2. Landdrost of Stellenbosch v The Slave, Asia of the Cape, 22 March 1810, (C.J.803, p.431-460)  
The accused, who was 21 years of age, was found guilty of the wilful murder of his mistress, who had brought him up as her own child.  
The accused was sentenced to be delivered to the executioner. His right hand to be chopped off and to be hanged by the neck until dead. The head to be struck off. The corpse to be transported to the Flaggeberg and to be hung by the legs to a gibbet on the public road. The head and the hand to be stuck on a spike.  
\* Fiat Execution : *The accused to be executed with the exception of that part of the sentence by which he was condemned to have his right hand chopped off.*
3. Landdrost of Graaff Reinet v The Slave, Geduld from Mocambique, 26 April 1810, (C.J.803, p.525-539)  
The accused, who was approximately 60 years of age, was found guilty of hostile aggression towards his overseer and of wounding him.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.
4. Deputy Fiscal v Johan George Lodewyk Fleischakker, 3 May 1810, (C.J.803, p.540-552)  
The accused was found guilty of immediate efforts towards ravishing a child. (Attempted Rape)  
Sentenced to be severely scourged. Thereafter to be banished for life from the colony. To be detained on Robben Island pending transportation.  
  
\* Court of Criminal Appeals : *The accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 23 July 1810 the Court confirmed the sentence of the Court of Justice. (Criminal Minute Book : G.H.47/1/1, p.5 et seq.)*
5. Landdrost of The Cape District v The Hottentots : 1) Abraham; 2) Hector; 3) Schipper Kleynbooy & 4) The Slave, Africa of the Cape, 10 May 1810, (C.J.803, p.479-509)  
The accused were found guilty of excessive violence and of assaulting others in their own dwelling, accompanied with the

cruel treatment of the hottentot Swartbooy, which resulted in his death. (Murder)

The first and second accused were sentenced to be hanged by the neck until dead. The corpses to be conveyed to the neighbourhood of Salt River. The corpse of the first accused to be decapitated and the head placed on a spike. The body to be hung up by the legs. The corpse of the second accused to again be hung up. Both the corpses to remain until consumed by the elements and the birds of prey. The third and fourth accused were sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works. The third accused for 10 years, and the fourth accused for 15 years.

\* Fiat Execution : *The first two accused to be hanged by the neck until dead. However, the further part of their condemnation, with respect to their bodies, shall not be executed.*

6. Fiscal v The Prisoners of War : 1) Jean Bapiste Le Baron; 2) Francois Herboline & 3) Felix La Pert, 16 May 1810, (C.J.803, p.461-478)

The first accused, who was 31 years of age and was born in Bourdoux, was found guilty of manslaughter. The second accused, who was 28 years of age and was born in Neville, and the third accused, who was 35 years of age and was born in Loissons, were found guilty in different degrees of lending their assistance thereto. (Duelling)

The first and second accused were sentenced to be severely scourged. Thereafter, together with the third accused, to be banished for life from the colony.

\* Fiat Execution : *In consequence of the long confinement of the prisoners and the degree of provocation received by the principal, the punishment to be remitted.*

7. Fiscal v The Slave, Africa of the Cape, 24 May 1810, (C.J.803, p.510-524)

The accused was found guilty of wounding the slave Rosina with a murderous instrument.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.

8. Fiscal v The Government Slave, Baiientje from Mocambique, 2 August 1810, (C.J.804, p.45-64)

The accused was found guilty of treacherously wounding the slave Mathakamma with a murderous instrument.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

9. Fiscal v The Slave, Philis from Batavia, 2 August 1810, (C.J.804, p.65-75)

The accused was found guilty of treacherously wounding the slave Damon.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and

branded. Thereafter to be confined in irons and to labour on the public works for life.

10. Landdrost of The Cape District v The Hottentot, Cobus Valentyn, 30 August 1810, (C.J.804, p.104-112)

The accused was found guilty of theft, accompanied by force. Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

11. Fiscal v The Slave, Christian of the Cape, 27 September 1810, (C.J.804, p.125-142)

The accused was found guilty of fraud and theft. Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 6 years.

12. Fiscal v Laurence Hynes Halloran, 10 December 1810, (C.J.803, p.553-558)

The accused was found guilty of having atrociously injured the Lieutenant Governor of the Cape by composing, writing and publishing defamatory libels. The accused was also found guilty of making offensive and slanderous expressions in court. (Contravention of the Proclamation dated 3 September 1792)

The accused was sentenced to be banished for life from the colony. He was also sentenced to pay a fine of 50 Rixdollars for contravening the proclamation.

\* Court of Criminal Appeals : *The accused lodged an appeal against conviction and sentence with the Court of Criminal Appeals. On 30 January 1811 the Court confirmed the sentence of the Court of Justice.* (G.H.47/2/1; G.H.47/2/2 & G.H.47/1/1, p.9 et seq.)

13. Fiscal v Johanna Geertruida Caesars, 20 December 1810, (C.J.803, p.412-430)

The accused, who was 28 years of age and was born in Cape Town, was found guilty of housebreaking and theft.

The accused was sentenced to be severely scourged and branded. Thereafter to be confined in some secure place for 10 years in order to 'earn her bread by the work of her own hands'.

\* Fiat Execution : *The accused to be delivered to the executioner and to be branded. Thereafter to be confined in some secure place for 10 years.*

14. Fiscal v The Hottentot, Joris Prins, 20 December 1810, (C.J.804, p.113-124)

The accused was found guilty of vagabondising and the theft of cattle. (Stock Theft)

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

1811.

1. Fiscal v Francois Henry Stedel, 3 January 1811, (C.J.804, p.1-6)

The accused was found guilty of writing defamatory libels. Sentenced to be confined in prison for 3 months.

2. Fiscal v Pierre Toilet, 3 January 1811, (C.J.804, p.143-155)  
The accused, who was 28 years of age and was born in Spain, was found guilty of falsity and fraud.  
Sentenced to be banished for life from the colony.
3. Landdrost of Graaff Reinet v The Hottentots, Kieviet & Abraham Leenders, 17 January 1811, (C.J.804, p.7-44)  
The accused, who were approximately 20 years of age, were found guilty of robbery with arms on the King's Highway, accompanied with the use of force on some Hottentots, who were compelled to follow them.  
The accused were sentenced to be hanged by the neck until dead.  
*\* Fiat Execution : The accused to be transported to Robben Island and to labour on the public works for life.*
4. Fiscal v The Hottentot, Hans Trompeter, 31 January 1811, (C.J.804, p.76-88)  
The accused was found guilty of vagabondising with arms, using force, and theft of cattle. (Stock Theft)  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.
5. Fiscal v The Hottentot, Philip Jager, 31 January 1811, (C.J.804, p.89-103)  
The accused, who was approximately 16 years of age, was found guilty of theft, accompanied with open violence.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.
6. Fiscal v Michiel Stephanus, 31 January 1811, (C.J.804, p.156-162)  
The accused, who was 30 years of age and was born in Trieste, was found guilty of seduction and of ravishing an under-aged girl. (Rape)  
Sentenced to be banished for life from the colony.
7. Fiscal v Thomas Appleby, 28 March 1811, (C.J.804, p.163-178)  
The accused, who was 23 years of age and was born in England, was found guilty of falsifying an account. (Fraud)  
Sentenced to be banished for life from the colony.
8. Fiscal v The Female Hottentot, Sarah, 28 March 1811, (G.H.47/2/3, p.315-316)  
The accused was found guilty of the murder of a child aged two.  
Sentenced to be bound to a stake and strangled to death.  
*\* Court of Criminal Appeals : The accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 13 August 1811 the Court upheld her appeal and the sentence of the Court of Justice was reversed.*  
(G.H.47/2/3, p.1-317; G.H.49/8, p.378-664; G.H.47/1/1, p.24 3t seq.)

9. Fiscal v Petrus Theron, 11 April 1811, (C.J.804, p.179-192)

The accused, who was 32 years of age and was born in the colony, was found guilty of forgery and fraud.

Sentenced to be taken to the usual place of execution and to be delivered to the executioner. To be exposed to the public view with a board secured to his chest, on which the word 'Forger' was written. Thereafter to be severely scourged and banished from the colony for 12 years.

\* Fiat Execution : *With the exception of that part of the sentence which contains corporal punishment and public exposure, which is remitted.*

10. Fiscal v The Slaves : 1) Baatjoe from Macasser; 2) Cupido from Ceylon; 3) The Female Slave, Malati from Bengal; 4) The Free Black, Mey; 5) The Female Bastard Hottentot, Lena & 6) The Slave, Damon of the Cape, 25 May 1811, (C.J.804, p.193-214)

The first, second, and third accused were found guilty of murder. The fourth, fifth, and sixth accused were found guilty of being acquainted with the murder or of being accessories thereto. The fourth accused was also found guilty of harbouring a slave at his house and of concealing her goods.

The first, second, third, fourth, and fifth accused were sentenced to be brought to the place of execution and to be delivered to the executioner. The first and second accused to be hanged by the neck until dead. The third accused to be strangled. The fourth and fifth accused to be severely scourged. Thereafter to be confined in irons. The fourth accused to labour on the public works for life. The fifth accused to be confined in some secure place for 10 years and to earn her bread by the work of her hands. After hearing the public pronouncement of the sentence, the sixth accused to be severely flogged in prison by the Caffres of Justice and then returned to his master.

\* Fiat Execution : *With the exception of that part of the sentence which relates to the punishment of the fifth accused, whose punishment is commuted to a flogging similar to that of the sixth accused.*

11. Fiscal v The Slaves : 1) Jacob of the Cape; 2) Apollos of the Cape; 3) The Female Slave, Rosina of the Cape; 4) Donne of the Cape; 5) Esau of the Cape; 6) Truy of the Cape & 7) The Negro Apprentice, Basile from Madagascar, 25 May 1811, (C.J.804, p.215-234)

The first and second accused were found guilty of receiving and trading in stolen goods. The third accused was found guilty of purchasing stolen goods. The fourth, fifth, and sixth accused were released under handtasting. The seventh accused was found not guilty.

The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 10 years. After witnessing the punishment, the third accused was sentenced to be flogged in prison by the Caffres of Justice.

\* Fiat Execution : *The third accused, Rosina, to be pardoned.*



12. Fiscal v The Slave, Louis from Mauritius, 4 July 1811, (C.J.804, p.246-255)  
The accused was found guilty of theft.  
The accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.  
\* Fiat Execution : *After receiving the corporal punishment, the accused to be confined in irons for 1 year and to labour with his master.*
13. Landdrost of The Cape District v The Slaves : 1) Francois from Mauritius; 2) Bacchus from Mocambique & 3) Nourie from Mocambique, 18 July 1811, (C.J.804, p.235-245)  
The accused were found guilty of housebreaking and theft.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the three accused to be confined in irons. The first accused for 5 years and to labour on the public works. The second accused for 3 years and the third accused for 1 year. The second and third accused to labour with their master.  
\* Fiat Execution : *With the first accused to labour with his master instead of on the public works.*
14. Landdrost of Graaff Reinet v Johan Hendrik Kuthe, 12 September 1811, (C.J.804, p.256-271)  
The accused, who was 28 years of age and was born in Prussian Minden, was found guilty of deceit. He was a former soldier, who remained behind in the colony without permission, and travelled about under a false name.  
Sentenced to be banished for life from the colony.
15. Landdrost of Stellenbosch v The Slaves : 1) February from Mocambique; 2) David from Bengal & 3) Onverwagt of the Cape, 12 September 1811, (C.J.804, p.359-381)  
The accused were found guilty of housebreaking and theft.  
\* The first accused had a previous conviction and was employed as a Caffre of Justice. The third accused, who was approximately 70 years of age, had a previous conviction for a similar crime.  
The first accused was sentenced to be hanged by the neck until dead. The second and third accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works. The second accused for 1 year, and the third accused for 3 years.
16. Landdrost of Swellendam v The Hottentots, Armoed Taay & Gezwind Dragonder, 21 October 1811, (C.J.804, p.285-291)  
The case was heard by the Circuit Court at Swellendam.  
The first accused was found guilty of housebreaking and theft. The second accused was found guilty of being an accomplice.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 3 years.

17. Landdrost of Swellendam v The Slaves, Romana & January, 22 October 1811, (C.J.804, p.278-283)  
The case was heard by the Circuit Court at Swellendam.  
The first accused was found guilty of making a false accusation of a most serious nature against his master. The second accused was found guilty of laying false charges against his master concerning his alleged mishandling.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons for 1 year and to labour with his master. The second accused was sentenced to receive domestic correction and to be returned to his master.
18. Landdrost of The Cape District v Hendrik Anthon Stadler & Fredrik Stadler, 14 November 1811, (G.H.47/2/4, p.1-371; G.H.47/2/5 & G.H.47/1/1, p.29 et seq.)  
The accused were charged with ill-treating a slave named Patiente, who died as a result.  
The Court of Justice, however, rejected the prosecutor's claim.  
\* Court of Criminal Appeals : The prosecutor lodged an appeal against the sentence with the Court of Criminal Appeals. On 27 June 1812 the appeal was dismissed, but the Court reversed that part of the sentence whereby the prosecutor was ordered to pay the costs. The Court further ordered the respondents to pay the costs incurred in the court below and on appeal.
19. Landdrost of Graaff Reinet v The Female Slave, Regina of the Cape, 21 November 1811, (C.J.804, p.348-358)  
The accused, who was 17 years of age, was found guilty of assaulting and wounding her mistress with a sharp mortal weapon.  
Sentenced to be bound to a stake and strangled to death.  
\* Fiat Execution : With the punishment of death remitted. The accused to be flogged in prison and then sold for the benefit of the children of her mistress.
20. Landdrost of Uitenhage v The Hottentot, Anthony, 12 December 1811, (C.J.804, p.272-277)  
The case was heard by the Circuit Court at Uitenhage.  
The accused was found guilty of removing two slaves, who were lawfully owned by an inhabitant of the colony, to 'Kafferland'.  
Sentenced to be severely scourged. Thereafter to be confined in irons for 3 years and to be placed on Robben Island.
21. landdrost of Swellendam v The Female Hottentot, Sara, 19 December 1811, (C.J.804, p.293-309)  
The accused, who was approximately 15 years of age, was found guilty of setting fire to her master's house with the intention to deprive him and his family of their lives.  
The accused was sentenced to be tied to a stake and strangled to death.  
\* Fiat Execution : With the punishment of death remitted. The accused to be severely scourged and branded. Thereafter to be confined in irons for 5 years and to be placed in some secure place in order to earn her bread by the work of her own hands.

1812

1. Landdrost of Tulbagh v The Slave, Moses from Mocambique, 27 January 1812, (C.J.804, p.310-316)  
The case was heard by the Circuit Court at Tulbagh.  
The accused was found guilty of assualting and wounding the slave Roelof.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.  
\* Fiat Execution : *After receiving the corporal punishment, the accused to be confined in irons for 2 years and to labour on the public works at the Drostdy.*
2. Landdrost of Tulbagh v The Slaves, Laptoe from Batavia & Adonis of the Cape, 30 January 1812, (C.J.804, p.336-347)  
The accused were found guilty of the murder of the slave girl Lena.  
The accused were sentenced to be hanged by the neck until dead.
3. Landdrost of Stellenbosch v The Slave, Cedras of the Cape, 12 March 1812, (C.J.804, p.317-335)  
The accused was found guilty of the murder of his master and other members of his family.  
Sentenced to be hanged by the neck until dead.
4. Fiscal v The Slaves : 1) William from Mocambique; 2) Benjamin of the Cape & 3) Damon from Bengal, 16 March 1812, (C.J.804, p.397-416)  
The accused were found guilty of theft, accompanied by the forcing open of a desk. The first accused provided the opportunity and was accordingly also found guilty of great infidelity towards his master.  
The accused were sentenced to be severely scourged and branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 25 years, and the second and third accused for 15 years.  
\* Fiat Execution : *After having received corporal punishment, the first accused to be confined in irons for 10 years, and the second and third accused for 5 years.*
5. Landdrost of Stellenbosch v The Slaves : 1) Mentor from Mocambique; 2) Arend of the Cape & 3) Esau from Mocambique, 16 March 1812, (C.J.804, p.417-436)  
The first and second accused were found guilty of vagabondising, repeated theft, and violence. The court rejected the claim and conclusion against the third accused.  
The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 5 years.
6. Fiscal v Johannes Joachimus Theron, 20 March 1812, (C.J.47/2/5)  
The accused was found guilty of atrocious injury to the Deputy Fiscal in the exercise of his duty.

Sentenced to be confined in prison for three months.

\* Court of criminal Appeals : *The accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals, but subsequently abandoned it.*

7. Landdrost of Stellenbosch v The Slaves, Jan, born on board a ship, & Marthinus from Batavia, 9 may 1812, (C.J.804, p.453-471)  
The first accused was found guilty of robbery and theft. The second accused was found guilty of receiving and concealing goods belonging to a runaway slave.  
\* The first accused had a previous conviction for theft.  
The first accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years. The second accused was sentenced to be severely flogged in prison by the Caffres of Justice and then returned to his master..  
\* Fiat Execution : *With the confinement imposed on the first accused to be reduced to 7 years.*
8. Landdrost of The Cape District v The Hottentot, Moses, 16 July 1812, (C.J.804, p.437-452)  
The accused was found guilty of fraud and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.  
\* Fiat Execution : *With the confinement to be reduced to 5 years.*
9. Fiscal v The Female Slave, Regina of the Cape, 16 July 1812, (C.J.804, p.472-501)  
The accused was found guilty of forgery and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons for 5 years in some secure place within the colony, and to earn her bread by the work of her hands.
10. Landdrost of Swellendam v Stephanus Johannes Cloete, 16 July 1812, (G.H.47/2/4, p.372-419)  
The accused, who was born in the District of Swellendam, was found guilty of shooting the Hottentot girl Mietje.  
The accused was sentenced to be brought to the place of execution at the Drostdy of Swellendam, where he was to kneel down before a heap of sand. His eyes to be blindfolded and his neck exposed. Thereupon a sword to be passed over his head by the executioner. Thereafter to be banished for life from the colony.  
\* Court of Criminal Appeals : *The accused lodged an appeal against the sentence with the Court of Criminal Appeals. On 5 October 1812 the appeal was dismissed.*
11. The landdrost of Stellenbosch v 1) Rudolph Cloete; 2) Henry Cloete, Rudolph's son & 3) The Slave, Adonis from Mauritius, 3 September 1812, (G.H.47/2/8, p.1-648)  
The first accused was found guilty of violence against his neighbour, Jan Jacobus de Villiers. The Court rejected the charges against the second and third accused.  
The accused was sentenced to pay a fine of 1,000 Rixdollars; one half for the benefit of the Public School Fund, and the other

half for the use and benefit of the poor of the Reform Church at Stellenbosch.

\* Court of Criminal Appeals : *The accused lodged an appeal against his conviction and sentence with the Court of Criminal Appeals. On 8 May 1813 the appeal was dismissed.*

12. Landdrost of Uitenhage v Jan Nicolaas Deynhardt, 5 November 1812, (C.J.805, p.1-180)

The case was heard by the Circuit Court at Uitenhage.

The accused, who was the Under-Sheriff of the Drostdy, was found guilty of neglect of duty and excessive cruelty towards two Hottentot prisoners.

The accused was sentenced to forfeit his situation as Under-Sheriff. To be confined in the public prison at Uitenhage for 6 months. Thereafter to be banished from the District of Uitenhage for 6 years.

13. Landdrost of Uitenhage v The Bastard Hottentot, Jan, 6 November 1812, (C.J.805, p.370-386)

The case was heard by the Circuit Court at Uitenhage.

The accused was found guilty of vagabondising and repeated theft. Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 2 years.

\* Fiat Execution : *After undergoing the corporal punishment, the accused shall be released from custody.*

14. Fiscal v The Slaves, Adam of the Cape & Abraham of the Cape, 19 November 1812, (C.J.805, p.218-243)

The first accused was found guilty of theft. The second accused was found guilty of being an accomplice.

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the second accused for 3 years.

15. Fiscal v The Slave, Klaas of the Cape, 19 November 1812, (C.J.805, p.244-260)

The accused, who was approximately 20 years of age, was found guilty of attempted sodomy with a dog.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.

16. Fiscal v The Slave, Emanuel of the Cape, 19 November 1812, (C.J.805, p.299-329)

The accused, who was approximately 18 years of age, was found guilty of theft.

\* The accused had a previous conviction for a similar offence.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 6 years.

17. Fiscal v The Slave, Onrust from Bougies, 19 November 1812, (C.J.805, p.387-402)

The accused was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

18. Landdrost of Stellenbosch v The Hottentots, Cupido Platje & Cobus Cora, 17 December 1812, (C.J.805, p.181-200)  
The accused were found guilty of vagabondising and theft.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year. The second accused was sentenced to be severely flogged in prison by the Caffres of Justice and then to be set at liberty.
19. Fiscal v The Slave, Damon of the Cape, 17 December 1812, (C.J.805, p.201-217)  
The accused, who was approximately 24 years of age, was found guilty of gross impudence to his master and mistress and especially of a murderous intention against the life of his master.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.
20. Fiscal v 1) Robert Harris; 2) Robert Cherry & 3) The Female Slave, Adriana of the Cape, 17 December 1812, (C.J.805, p.331-369)  
The first accused was found guilty of theft. The second and third accused were found guilty of receiving stolen goods.  
The first and second accused were sentenced to be severely scourged. Thereafter the first accused to be banished from the colony for 5 years. The second accused to be confined in the prison for 3 months. After witnessing the punishment, the third accused to be confined in prison on bread and water for 14 days and then returned to her mistress.  
*\* Fiat Execution : The first accused to be surrendered to the Navy. The second accused to be scourged in prison. The third accused to witness the punishment and both the second and third accused to be confined as above.*
21. Landdrost of George v The Hottentot, Jan Speelman, 19 December 1812, (C.J.804, p.524-536)  
The case was heard by the Circuit Court at George.  
The accused was found guilty of the theft of cattle. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 3 Years.
22. Landdrost of Tulbagh v The Hottentot, Piet Platje, 31 December 1812, (C.J.804, p.502-523)  
The accused was found guilty of the murder of his wife and child.  
Sentenced to be hanged by the neck until dead.
23. Landdrost of Stellenbosch v The Slave, Caesar from Mocambique, 31 December 1812, (C.J.805, p.261-276)  
The accused was found guilty of theft and of making forcible

resistance.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

24. Landdrost of Uitenhage v The Hottentot, Witbooy Tarantaal, 31 December 1812, (C.J.805, p.423-452)

The accused was found guilty of the 'most horrid and wilful murder'.

Sentenced to be hanged by the neck until dead.

1813

1. Landdrost of Stellenbosch v The Slaves : 1) Damon from Mocambique; 2) Manus of the Cape & 3) Saul from Mocambique, 14 January 1813, (C.J.805, p.277-298)

The accused were found guilty of repeated theft, the last of which was accompanied with aggravating circumstances.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the second and third accused for 3 years.

2. Landdrost of Stellenbosch v The Slave, La Fleur of the Cape, 14 January 1813, (C.J.805, p.403-421)

The accused, who was approximately 30 years of age, was found guilty of the theft of sheep. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

3. Fiscal v George Brown, 11 February 1813, (C.J.805, p.453-464)

The accused, who was 31 years of age and was born in America, was found guilty of theft, accompanied with force, and of a breach of the trust reposed in him.

Sentenced to be severely scourged. Thereafter to be banished from the colony for 10 years.

\* Fiat Execution : *As the man is an American, his punishment is remitted and he shall be placed among the prisoners of war.*

4. Landdrost of George v The Slave, Anthony from Bombay, 11 February 1813, (C.J.805, p.501-512)

The accused, who was employed as one of the Caffres of Justice, was found guilty of bestiality with a bitch in the most complete degree.

Sentenced to be hanged by the neck until dead.

5. Landdrost of George v The Hottentot, Ruyter, 11 February 1813, (C.J.805, p.584-602)

The accused was found guilty of murder.

Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *Owing to the circumstances of the case and the extraordinary length of his confinement, the punishment is remitted. After the sentence has been pronounced, the prisoner shall be released.*

6. Landdrost of George v The Female Hottentot, Klyna, 28 February 1813, (C.J.805, p.528-543)  
The accused, who was approximately 14 years of age, was found guilty of murder.  
Sentenced to be tied to a stake and strangled to death.  
\* Fiat Execution : *With remission of the punishment. The accused to be severely scourged. Thereafter to be confined for 5 years and to gain her sustenance by the work of her hands.*
7. Fiscal v The Bastard Hottentot, Jan Bouche, 25 February 1813, (C.J.805, p.561-583)  
The accused was found guilty of ravishing a girl not fit for copulation. She was seven years old. (Rape)  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
8. Fiscal v The Slaves, Mey from Batavia & Jonas of the Cape, 1 March 1813, (C.J.805, p.465-500)  
The first accused, who was approximately 30 years of age, and the second accused, who was approximately 25 years of age, were found guilty of murder.  
The accused were sentenced to be hanged by the neck until dead.
9. Fiscal v Gerrit Rennecken, 11 March 1813, (C.J.806, p.187-206)  
The accused, who was 14 years of age and was born in the District of Uitenhage, was found guilty of murder. He shot the Bastard Hottentot Gerrit because he did not respond quickly enough when called to go to the cattle.  
Sentenced to be hanged by the neck until dead.  
\* Pardon : *Granted by the Prince Regent. The prisoner to be kept in custody at Robben Island until the time of his being transported to New South Wales.*
10. Fiscal v The Slave, Antony from Makao, 8 April 1813, (C.J.805, p.513-527)  
The accused was found guilty of theft.  
\* The accused had a previous conviction as an accomplice to theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons for 5 years.
11. Landdrost of Stellenbosch v The Slave, Spasie from Mocambique, 23 April 1813, (C.J.805, p.544-560)  
The accused was found guilty of the murder of her children.  
Sentenced to be tied to a stake and strangled to death.
12. Fiscal v The Free Black, Kietiel, 6 May 1813, (C.J.805, p.672-689)  
The accused was found guilty of ravishing the girl Martha, who was approximately 8 years old. (Rape)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.  
\* Fiat Execution : *With the confinement reduced to 5 years.*



13. Landdrost of Stellenbosch v The Slave, Jean Bapiste from Mauritius, 6 May 1813, (C.J.805, p.690-705)  
The accused, who was approximately 34 years of age, was found guilty of being an accomplice to theft.  
Sentenced to be severely scourged and then returned to his master.
14. Landdrost of Swellendam v Abraham Matthee & Sara Johanna Small, 20 May 1813, (C.J.805, p.623-635)  
The accused were found guilty of incest. The first accused was also found guilty of adultery.  
The first accused was sentenced to be banished for life from the colony. The second accused was sentenced to be banished for life from the District of Swellendam.  
*\* Fiat Execution : After the sentence has been pronounced, the first accused shall be released and sent out of the District of Swellendam, never to return again, or to any other district in which the second accused has come to reside in.*
15. Landdrost of George v Cornelis van Tonderen, 3 June 1813, (C.J.805, p.603-622)  
The accused, who was 27 years of age and was born in the Congo, was found guilty of killing his wife.  
The accused was sentenced to be taken to the place of execution. There to kneel down before a heap of sand. After being blindfolded, a sword to be passed over his head by the executioner. Thereafter to be banished for life from the colony.
16. Landdrost of Stellenbosch v The Slave, Francois of Mauritius, 3 June 1813, (C.J.805, p.743-758)  
The accused, who was approximately 55 years of age, was found guilty of manslaughter. (Culpable Homicide)  
Sentenced to be exposed to the public view with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.  
*\* Fiat Execution : As there was no malice and many circumstances appeared to favour the accused, his sentence to be remitted to confinement in irons and labour on the public works for 1 year.*
17. Landdrost of Stellenbosch v The Hottentots, Andries Laberlot & Boesak Jonker, 3 June 1813, (C.J.805, p.797-816)  
The accused were found guilty of vagabondising, repeated robbery on the highway, theft of cattle, and murder.  
The accused were sentenced to be hanged by the neck until dead.
18. Fiscal v Johannes Adrianus Vermaak, 24 June 1813, (G.H.47/2/7, p1-239; G.H.47/1/1, p.50 et seq.)  
The accused was found guilty of excessive punishment of his slave.  
Sentenced to pay a fine of 50 Rixdollars for the relief of the poor and it was recommended that he exercise caution when punishing his slaves.  
*\* Court of Criminal Appeals : On 28 June 1813 the Fiscal lodged an appeal against the sentence with the Court of Criminal Appeals. On 29 September 1813 the Court upheld the appeal and ordered that the slave be judicially sold for the account of the respondent,*

never again to come into his or his relations' possession. The respondent was further ordered to pay the fine of 50 Rixdollars.

19. Fiscal v The Slave, Prins of the Cape, 17 July 1813, (C.J.805, p.636-652)  
The Accused, who was approximately 35 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : With remission of the confinement to 1 year.
20. Beelaerts van Blokland v Johannes Strydom, 20 July 1813, (G.H.47/2/8 (A); G.H.47/1/1, p.41 et seq.)  
Van Blokland was especially authorised to act as prosecutor in certain cases involving cruelty to Hottentots and others.  
The accused was found guilty of murder.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : On 26 July 1813 the accused lodged and appeal against his conviction and sentence with the Court of Criminal Appeals. On 13 September 1813 the Court upheld the appeal and reversed the sentence.
21. Landdrost of Uitenhage v The Hottentot, Arnoldus Fedor, 20 July 1813, (C.J.805, p.653-660)  
The accused was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
22. Landdrost of Stellenbosch v The Hottentot, Cobus Cora, 20 July 1813, (C.J.805, p.719-730)  
The accused was found guilty of housebreaking and theft.  
\* The accused had a previous conviction for vagabondising.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
23. Landdrost of Tulbagh v The Hottentot, Abraham Willemse, 20 July 1813, (C.J.805, p.731-742)  
The accused was found guilty of murder.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : Sentence commuted. The accused to be confined in irons and to labour on the public works for 3 years.
24. Landdrost of Stellenbosch v The Slave, Francois from Bourbon, 12 August 1813, (C.J.805, p.661-671)  
The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : With the confinement reduced to 1 year.
25. Landdrost of Stellenbosch v The Slave, Pompie from Madagascar, 12 August 1813, (C.J.805, p.784-796)  
The accused was found guilty of wounding his master.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and

branded. Thereafter to be confined in irons and to labour on the public works for life.

26. Fiscal v Thomas Swinyard, 26 August 1813, (C.J.805, p.759-769)  
The accused, who was 27 years of age and was born in England, was found guilty of traitorously attacking and wounding John Constable.  
Sentenced to be banished for life from the colony.
27. Landdrost of The Cape District v Hendrik Laurens, 26 August 1813, (C.J.805, p.770-782)  
The accused, who was 17 years of age and was born in the colony, was found guilty of manslaughter. (Culpable Homicide)  
Sentenced to be confined on Robben Island for 1 year.  
*\* Fiat Execution : In view of the accused's youth and the fact that he had no intention to kill, the sentence to be altered to confinement in his father's house for 1 year, without showing his person in the public during that time.*
28. Fiscal v 1) William Young; 2) George Reynolds & 3) Henry Murray, 31 August 1813, (G.H.47/2/6, p.1-257; G.H.49/5, p.993-997)  
The first accused, who was Captain of the ship Bonnetta, and the second and third accused, who were agents for the owners of the ship, were found guilty of unlawfully importing East India goods into Table Bay in the Bonnetta.  
In terms of the sentence the ship, together with the cargo, were forfeited and confiscated.  
*\* Court of Criminal Appeals : On 6 September 1813 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 4 September 1815 the Court dismissed the appeal, save and except for costs, which were to be paid out of the proceeds received from the sale of the ship and cargo.*
29. Landdrost of The Cape District v The Free Black, Griep, 2 September 1813, (C.J.805, p.817-830)  
The accused was found guilty of great excess with a dangerous instrument, which resulted in the death of a person. (Culpable Homicide).  
Sentenced to be confined in irons and to labour on the public works for 3 years.
30. Landdrost of Stellenbosch v The Slave, Abraham of the Cape, 11 September 1813, (C.J.805, p.706-718)  
The accused, who was approximately 20 years of age, was found guilty of repeated theft.  
Sentenced to be severely scourged and then returned to his master.
31. Fiscal v The Slaves : 1) Pieter of the Cape; 2) Carel of the Cape; 3) Primo of the Cape; 4) Dirk of the Cape; 5) Fortuin of the Cape; 6) Arend of the Cape; 7) Willem of the Cape; 8) Abraham of the Cape; 9) Africa from Mocambique; 10) Francois of the Cape; 11) Azor from Mocambique; 12) Adriaan from Batavia; 13) Adriaan from Mocambique; 14) Hannibal from Mocambique; 15) November from Ihambana; 16) Bachus from Mocambique; 17) Louis from Mocambique;

18) July from Malebar; 19) Hannibal from Bengal; 20) The Free Black, Jabberdien of the Cape; 21) The Free Black, Samuel of the Cape; The Slaves : 22) Eva of the Cape; 23) Lea of the Cape; 24) Serville of Mauritius; 25) Bethje of Pondichery; 26) Clarinda of Madagascar; 27) Minerva of Madagascar; 28) Chaaly of the Cape; 29) Jamalea of the Cape; 36) The Free Black, Loubon of the Cape; 37) The Hottentot, Bethje & 38) The Free Black, Delia of the Cape, 15 September 1813, (C.J.805, p.331-865)

The second, third, fourth, fifth, seventh, eighth, tenth, eleventh, twentieth, twenty-second, twenty-third, twenty-ninth, thirty-fourth, and thirty-eighth accused were found guilty in different degrees of theft or of receiving and concealing stolen goods. The second and third accused were also found guilty of housebreaking and theft.

The second and third accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fifth, seventh, eighth, tenth, eleventh, twentieth, and twenty-second accused, to be severely scourged. The second, third, fourth, fifth, seventh, eighth, tenth, and eleventh accused to be branded. Thereafter the second, third, fourth, fifth, seventh, eighth, tenth, eleventh, and twentieth accused to be confined in irons and to labour on the public works. The second and third accused for life, the fourth, seventh, and tenth for 10 years, and the fifth, eighth, eleventh, and twentieth accused for 5 years. After witnessing the punishment, the twenty-third, twenty-ninth, and thirty-eighth accused, together with the twenty-second accused, to be released. The thirty-fourth accused was sentenced to be severely flogged in prison by the Caffres of Justice and then released. The remaining accused were released under 'handtasting'.

32. Landdrost of Graaff Reinet v The Hottentots : 1) Catjoe; 2) Europa & 3) Jacob Snel, 9 November 1813, (C.J.806, p.173-186)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of vagabondising. The first and second accused were also found guilty of horse theft, and the third accused of being an accomplice. (Stock Theft)

The accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works. The first and second accused for 4 years, and the third accused for 3 years.

33. Landdrost of Graaff Reinet v The Hottentots : 1) Posthouder; 2) Stuurman; 3) Kaloer; 4) Jag & 5) Nella, 10 November 1813, (C.J.806, p.151-163)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 24, the third accused, who was approximately 18, and the fourth accused, who was approximately 20, were found guilty of vagabondising and repeated cattle theft. The fifth accused, who was approximately 17 years of age, was found guilty of having been part of the gang and of having partaken of the stolen victuals. (Stock Theft)

The first, second, third, and fourth accused were sentenced to be

severely scourged. Thereafter the four accused to be confined in irons and to labour on the public works for 5 years. After witnessing the punishment, the fifth accused was sentenced to be severely flogged in prison by the Caffres of Justice and then released.

34. Landdrost of Graaff Reinet v The Hottentot, Willem Smit, 10 November 1813, (C.J.806, p.162-172)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 24 years of age, was found guilty of making a false accusation of the most shameful and unnatural crimes. (That the Swanepoel sons had lain with a bitch and a cow).

Sentenced to be delivered to the executioner and to be exposed to the public view with a board hung from his neck, containing the words 'False Accuser'. Thereupon to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

35. Landdrost of Uitenhage v The Hottentots : 1) Damon; 2) Karel & 3) Stoffel, 27 November 1813, (C.J.806, p.103-122)

The case was heard by the Circuit Court at Uitenhage.

The first accused, who was approximately 40 years of age, the second accused, who was approximately 25, and the third accused, who was approximately 16, were found guilty of vagabondising with arms and repeated cattle theft. (Stock Theft) The first and second accused were also found guilty of associating with the 'Caffers' for a long time.

\* The first accused had a previous conviction.

The accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 25 years, the second accused for 10 years, and the third accused for 3 years.

\* Fiat Execution : *With the confinement imposed on the third accused remitted on account of his youth.*

36. Fiscal v The Slaves, Lackey from Batavia & Pieter of the Cape, 2 December 1813, (C.J.806, p.35-49)

The first accused, who was approximately 20 years of age, and the second accused, who was approximately 25, were found guilty of horse theft. (Stock Theft)

\* The second accused had a previous conviction for stock theft.

The accused were sentenced to be severely scourged. The second accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 3 years, and the second accused for 10 years.

37. Fiscal v The Female Bastard Hottentot, Marietjie Rossouw, 2 December 1813, (C.J.806, p.65-76)

The accused, who was approximately 20 years of age, was found guilty of public violence and assault.

Sentenced to be severely scourged. Thereafter to be banished from the Cape District for 5 years.

38. Fiscal v The Bastard Hottentot, Laptoe, 2 December 1813, (C.J.806, p.77-88)  
The accused, who was approximately 14 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 6 months.
39. Landdrost of The Cape District v Fredrik Beyer, 2 December 1813, (C.J.806, p.89-102)  
The accused, who was 27 years of age and was born in the colony, was found guilty of public violence at night.  
Sentenced to be banished for life from the colony.
40. Landdrost of Stellenbosch v The Hottentot, Fix, 10 December 1813, (C.J.806, p.23-34)  
The accused, who was approximately 25 years of age, was found guilty of the theft of cattle. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
41. Landdrost of George v The Hottentots, Goliath & Kieviet, 13 December 1813, (C.J.806, p.123-136)  
The first accused, who was approximately 25 years of age, and the second accused, who was approximately 22, were found guilty of housebreaking and repeated theft.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With the confinement reduced to 3 years.*
42. Landdrost of Stellenbosch v Jan Jacob Thomas, 30 December 1813, (C.J.806, p.15-22)  
The accused, who was 34 years of age and who stated that he was born in England and brought up in Saint Helena, was found guilty of vagabondising in a gang and theft.  
Sentenced to be severely scourged and returned to his master.  
\* Fiat Execution : *On account of his long confinement and of circumstances regarding his supposed slavery, which have not been satisfactorily explained, the corporal punishment to be remitted.*
43. Landdrost of Stellenbosch v The Slave, David of Mocambique, 30 December 1813, (C.J.806, p.51-64)  
The accused, who was approximately 50 years of age, was found guilty of theft and of wounding the slave Manus.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

#### 1814

1. Landdrost of Swellendam v Johannes van Tonderen, 3 March 1814, (C.J.807, p.1-20)  
The accused, who was 29 years of age and was born in the colony, was found guilty of the murder of a Hottentot woman.  
Sentenced to be hanged by the neck until dead.

38. Fiscal v The Bastard Hottentot, Laptoe, 2 December 1813, (C.J.806, p.77-88)  
The accused, who was approximately 14 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 6 months.
39. Landdrost of The Cape District v Fredrik Beyer, 2 December 1813, (C.J.806, p.89-102)  
The accused, who was 27 years of age and was born in the colony, was found guilty of public violence at night.  
Sentenced to be banished for life from the colony.
40. Landdrost of Stellenbosch v The Hottentot, Fix, 10 December 1813, (C.J.806, p.23-34)  
The accused, who was approximately 25 years of age, was found guilty of the theft of cattle. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
41. Landdrost of George v The Hottentots, Goliath & Kieviet, 13 December 1813, (C.J.806, p.123-136)  
The first accused, who was approximately 25 years of age, and the second accused, who was approximately 22, were found guilty of housebreaking and repeated theft.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With the confinement reduced to 3 years.*
42. Landdrost of Stellenbosch v Jan Jacob Thomas, 30 December 1813, (C.J.806, p.15-22)  
The accused, who was 34 years of age and who stated that he was born in England and brought up in Saint Helena, was found guilty of vagabondising in a gang and theft.  
Sentenced to be severely scourged and returned to his master.  
\* Fiat Execution : *On account of his long confinement and of circumstances regarding his supposed slavery, which have not been satisfactorily explained, the corporal punishment to be remitted.*
43. Landdrost of Stellenbosch v The Slave, David of Mocambique, 30 December 1813, (C.J.806, p.51-64)  
The accused, who was approximately 50 years of age, was found guilty of theft and of wounding the slave Manus.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

#### 1814

1. Landdrost of Swellendam v Johannes van Tonderen, 3 March 1814, (C.J.807, p.1-20)  
The accused, who was 29 years of age and was born in the colony, was found guilty of the murder of a Hottentot woman.  
Sentenced to be hanged by the neck until dead.

\* Fiat Execution : Sentence suspended and the papers sent to England. On 19 June 1815 the court was informed that the Prince Regent had granted a pardon and had directed that the accused be released.

2. Landdrost of Stellenbosch v The Hottentots : 1) Klaas Jan ; 2) Piet Lucas & 3) The Female Hottentot, Dina, 10 March 1814, (C.J.806, p.231-244)

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 40, were found guilty vagabondising and the theft of cattle. (Stock Theft) The third accused, who was approximately 50 years of age, was found guilty of having partaken of the stolen victuals.

The first and second accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the second accused for 3 years. After witnessing the punishment, the third accused to be set at liberty.

3. Fiscal v 1) Johannes Louw; 2) George Sebastian Nieuwhout; 3) Jan Harmse Steenkamp; 4) The Hottentot, September Fortuin; 5) the Hottentot, Darius Fortuin; 6) The Hottentot, Fortuin Coridon & 7) The Hottentot, Jacob Platje, 19 March 1814, (C.J.806, p.137-150)

The first accused was found guilty of having given a verbal order to a Commando, consisting solely of Hottentots, to pursue wandering Hottentots and to kill them. The first accused was also found guilty of malversations in his office as Field Cornet. The second accused was found guilty of fraud and of falsely reading a written order to the Commando from the first accused. The third accused was found guilty of having given a similar order to that of the first accused, and of giving further orders that, after the wandering Hottentots had been killed, their bodies should be ill-treated. The third accused was also found guilty of having attempted to kill a Hottentot. The fourth and fifth accused were found guilty of having killed a wandering Hottentot in compliance with the orders given by the first accused. The sixth accused was found guilty of having ill-treated the bodies of two of the wandering Hottentots, who were killed by the fourth and fifth accused. The seventh accused was found not guilty of wandering about armed and of subsisting by plunder.

The first accused was sentenced to forfeit his office as Field-Cornet and to be forever incapable of serving his country in any honourable employment. He was also sentenced to confinement on Robben Island for 1 year at his own expense. The second accused was sentenced to be banished from the colony for 5 years. The third accused was sentenced to be banished from the colony for 5 years and from the District of Tulbagh for life. The fourth and sixth accused were sentenced to be severely flogged in prison by the Caffres of Justice. Thereafter both the accused to be confined in irons and to labour on the public works. The fourth accused for 2 years, and the sixth accused for 1 year. The detention already undergone by the fifth accused was considered to be a sufficient and adequate punishment for him.

\* Court of Criminal Appeals : On 2 April 1814 the first and third



*accused lodged an appeal against their conviction and sentences with the Court of Criminal Appeals. On 18 April 1815 the Court dismissed the appeal. (G.H.47/2/11, p.1-837; G.H.49/6, p.102-205 & G.H.47/1/1, p.47 et seq.)*

4. Landdrost of Stellenbosch v The Slave, Jack from Bengal, 24 March 1814, (C.J.806, p.207-218)  
The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.
5. Landdrost of Stellenbosch v The Slave, Isaac of the Cape, 24 March 1814, (C.J.806, p.219-230)  
The accused was found guilty of horse theft. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
6. Landdrost of The Cape District v The Free Black, David, 23 May 1814, (C.J.806, p.485-498)  
The accused was found guilty of receiving stolen goods and of harbouring vagrant Hottentots.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.
7. Landdrost of Stellenbosch v The Slave, Martinus of the Cape, 2 June 1814, (C.J.806, p.415-426)  
The accused was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
8. Landdrost of Stellenbosch v The Slaves, Africa from Mautitius & Thomas from Mocambique, 16 June 1814, (C.J.806, p.381-394)  
The accused were found guilty of housebreaking and theft.  
Sentenced to be severely scourged and then returned to their masters.
9. Landdrost of Graaff Reinet v The Bushman, Toko (Alias Oortman), 16 June 1814, (C.J.806, p.471-484)  
The accused was found guilty of the murder of his wife. However, it was doubtful whether the prisoner could form an idea of the horror of the crime that he committed or of the punishment attached thereto.  
The accused was sentenced to be confined on Robben Island for life.
10. Landdrost of Tulbagh v The Hottentots, Piet Kaffer & Klaas Titus, 30 June 1814, (C.J.806, p.329-356)  
The first accused, who was approximately 30 years of age, and the second accused, who was approximately 33, were found guilty of vagabondising as an armed gang with the intention of instigating other Hottentots to mutiny and to plunder. The first accused was also found guilty of housebreaking and theft.  
The first accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the second accused to be severely scourged. The first accused

to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for life, and the second accused for 5 years.

11. Fiscal v William Leshman, 7 July 1814, (C.J.806, p.461-470)  
The accused, who was a sailor on board the ship Harrison, was found guilty of attempted sodomy with a dog.  
Sentenced to be banished for life from the colony.
12. Landdrost of The Cape District v Marthinus Schoeman, 21 July 1814, (C.J.806, p.307-328)  
The accused, who was 29 years of age and was born in the district of George, was found guilty of shooting the Hottentot Daniel, while the latter was endeavouring to escape. The shooting proved to be fatal.  
The accused was sentenced to be banished for life from the colony.  
*\* Fiat Execution : On account of his youth, lengthy period in confinement pending trial, good faith in reporting the incident himself, lack of education and the generally erroneous ideas of the inhabitants of the distant districts, the accused to be pardoned.*
13. Fiscal v The Slaves, Adam of the Cape & Spasie from Batavia, 23 July 1814, (C.J.806, p.395-414)  
The first accused, who was approximately 21 years of age, was found guilty of having run away for a lengthy period of time and of appropriating stolen goods. The second accused, who was approximately 10 years of age, was found guilty of receiving and concealing the goods.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years. After witnessing the punishment, the second accused was sentenced to be flogged in prison by the Caffres of Justice.
14. Landdrost of Stellenbosch v The Slave, Klaas of the Cape, 23 July 1814, (C.J.806, p.499-512)  
The accused, who was approximately 20 years of age, was found guilty of vagabondising and of being an accomplice to theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
15. Fiscal v 1) The Hottentot, Jonker Africa; 2) The Slave, Africa of the Cape & 3) The Slave, Isaak of the Cape, 23 July 1814, (C.J.806, p.527-540)  
The first accused, who was approximately 18 years of age, was found guilty of theft. The second accused, who was between 10 and 12 years of age, and the third accused, who was between 11 and 12 years of age, were found guilty of being accomplices.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year. The second and third accused were sentenced to be severely flogged in prison by the Caffres of Justice and then returned to their masters.

16. Fiscal v Johannes Joachimus Theron & Jacob Theron, 28 July 1814, (C.J.54/2, p.38-44 & 137-187; G.H.47/1/1, p.50 et seq.)  
The accused were found guilty of public hostility towards Jacob Van Reenen.  
The first accused was sentenced to confinement in prison for 3 months, and the second accused to confinement for 1 month,  
\* Court of Criminal Appeals : On 8 August 1814 the accused lodged an appeal against conviction and sentence with the Court of Criminal Appeals. On 18 April 1815 the Court upheld the appeal, but ordered the appellants to pay the costs incurred in the Court of Justice, together with a penalty of 50 Rixdollars.
17. Fiscal v Francis Paulest, 11 August 1814, (C.J.806, p.513-526)  
The accused, who was approximately 16 years of age and was born in Batavia, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
18. Landdrost of Tulbagh v 1) Barend Visagie; 2) Isaac Fredrik Visagie & 3) The Hottentot, Bastiaan, 25 August 1814, (G.H.47/2/9 & 10; G.H.47/1/1/, p.52 et seq.)  
The first and second accused were found guilty of the murder of two Hottentots, who had stolen one of their cattle. The third accused was found guilty of being an accomplice.  
The first two accused were sentenced to be hanged by the neck until dead. The third accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Court of Criminal Appeals : On 6 September 1814 the accused lodged an appeal against conviction and sentences with the Court of Criminal Appeals. The appeal was partly successful, and on 18 April 1815 the Court amended the sentence of the Court of Justice. The first two accused were declared to be guilty of culpable homicide, and the third accused was acquitted. The first accused was sentenced to be confined in irons and to labour on the public works for life. The second accused was sentenced to be confined in irons and to labour on the public works for 10 years.
19. Fiscal v 1) The Slave, Jacob of the Cape; 2) The Slave Jephta of the Cape; 3) The Free Black, Martinus of the Cape & 4) The Female Slave, Sara of the Cape, 5 September 1814, (C.J.806, p.245-290)  
The first, second, and third accused were found guilty of the murder of their mistress. The fourth accused, who was an accomplice, tendered information concerning the crime and was indemnified from prosecution by virtue of the Proclamation dated 19 August 1814.  
The first, second, and third accused were sentenced to be hanged by the neck until dead. Thereafter their heads to be severed with an axe, stuck upon a pole, and exposed to the public view as an example to others. The severed heads to remain on the pole until consumed by the elements and the birds of prey.
20. Fiscal v Frans Jurgens, 5 September 1814, (C.J.806, p.291-306)  
The accused, who was 70 years of age and was born in the colony,

was found guilty of allowing himself to be suborned and of actually giving false evidence in a murder trial. (Perjury)  
Sentenced to be brought to the place of execution and to be exposed to the public view with a board affixed to his breast, bearing the words 'False Witness'. Thereupon to be confined in prison for 3 months.

21. Government Resident of Simonstown v The Slave, Fortuin from Mocambique, 13 September 1814, (C.J.806, p.371-380)

The accused, who was approximately 18 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his master.

22. Fiscal v The Free Black, Christiaan of the Cape, 15 September 1814, (C.J.806, p.357-370)

The accused, who was approximately 25 years of age, was found guilty of fraud and theft.

\* The accused had a previous conviction for a similar crime. The confinement having been remitted by Governor Cradock on 19 July 1813.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 6 years.

23. Fiscal v The Female Free Black, Lena Willemsse, 15 September 1814, (C.J.806, p.427-448)

The accused, who was 54 years of age, was found guilty of concealing stolen goods.

Sentenced to be severely scourged. Thereafter to be banished for life from the colony.

24. Fiscal v Benjamin Batchelor, 15 September 1814, (C.J.806, p.449-460)

The accused, who was 23 years of age and was born in England, was found guilty of forgery.

Sentenced to be banished for life from the colony.

25. Landdrost of Tulbagh v The Hottentots : 1) Piet Willemsse; 2) Jantje Willemsse; 3) Jager Prins; 4) Soldaat Jager & 5) Andries, 1 October 1814, (C.J.806, p.541-547)

The case was heard by the Circuit Court at Tulbagh.

The first accused, who was approximately 50 years of age, the second accused, who was approximately 20, the third accused, who was approximately 20, the fourth accused, who was approximately 12, and the fifth accused, who was approximately 12, were found guilty of violently assaulting Jan Swart.

The first, second, and third accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works for 2 years. The fourth and fifth accused were released from detention on account of their youth.

26. Landdrost of Graaff Reinet v The Hottentot, Willem Zwartbooy, 8 November 1814, (C.J.807, p.21-32)

The case was heard by the Circuit Court at Graaff Reinet.

The accused was found guilty of killing a cow and a calf in the

fields.

Sentenced to be severely scourged. Thereafter confined in irons and to labour on the public works for 1 year.

27. Landdrost of Graaff Reinet v The Hottentot, Willem, 9 November 1814, (C.J.807, p.33-46)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused was found guilty of desertion and the theft of sheep. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 6 years.
28. Landdrost of Graaff Reinet v The Female Hottentots : 1) Eva; 2) Anna & 3) Els, 11 November 1814, (C.J.807, p.47-63)  
The case was heard by the Circuit Court at Graaff Reinet.  
The first accused was found guilty of administering poison to the wife of Lucas Schalkert. The second and third accused were found guilty of knowing of the crime.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in some safe place for 3 years. The second and third accused were sentenced to witness the punishment and then to be set free.
29. Landdrost of Graaff Reinet v The Hottentot, Gezwind, 14 November 1814, (C.J.807, p.64-78)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused was found guilty of vagabondising and of killing and wounding a considerable number of cattle.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
30. Landdrost of Graaff Reinet v The Hottentot, Fredrik, 15 November 1814, (C.J.807, p.79-91)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused was found guilty of wounding the Bastard Hottentot September with a knife.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
31. Landdrost of Uitenhage v John Macallister, 30 November 1814, (C.J.807, p.92-110)  
The case was heard by the Circuit Court at Uitenhage.  
The accused, who was a former sergeant in the Cape Regiment, was found guilty of attempting to have carnal knowledge with his daughter and of having gone to the house of Lieutenant Hart with loaded pistols. (Attempted Incest)  
Sentenced to be flogged within doors by the Constables of Justice. Thereafter to be banished for life from the colony.
32. Landdrost of Stellenbosch v The Hottentot, Kleinbooy, 15 December 1814, (C.J.807, p.111-125)  
The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

33. Landdrost of Stellenbosch v The Slaves : 1) Saptoe from Samarang; 2) Francis of the Cape; 3) Fortuin of the Cape & 4) Mentor from Timor, 15 December 1814, (C.J.807, p.126-145)

The first accused, who was approximately 40 years of age, the second accused, who was approximately 35, the third accused, who was approximately 25, and the fourth accused, who was approximately 45, were found guilty of repeated robbery. The first, second, and third accused were also found guilty of assault on the highway, and the first accused of threatening to stab the assaulted person.

The accused were sentenced to be severely scourged. The first, third, and fourth accused to be branded. Thereafter all four accused to be confined in irons and to labour on the public works. The first accused for 25 years, the third and fourth accused for 10 years, and the second accused for 5 years.

34. Landdrost of George v The Hottentot, Lucas, 20 December 1814, (C.J.807, p.146-161)

The case was heard by the Circuit Court at George.

The accused, who was between 25 and 30 years of age, was found guilty of the theft of cattle. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With the sentence remitted to corporal punishment only.*

35. landdrost of George v The Hottentot, Claas Prins, 20 December 1814, (C.J.807, p.162-174)

The case was heard by the Circuit Court at George.

The accused, who was approximately 20 years of age, was found guilty of horse theft. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With the sentence remitted to corporal punishment only.*

36. Landdrost of George v The Hottentot, Jan Hendrik, 26 December 1826, (C.J.807, p.175-187)

The case was heard by the Circuit Court at George.

The accused was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution: *With the sentence remitted to scourging and branding only.*

#### 1815

1. Landdrost of Swellendam v The Hottentot, Jacobus Vondeling, 3 January 1815, (C.J.808, p.17-28)

The Case was heard by the Circuit Court at Swellendam.

The accused, who was approximately 20 years of age, was found guilty of the theft of sheep. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in

irons and to labour on the public works for 2 years.

\* Fiat Execution : *With the confinement remitted to 1 year.*

2. Fiscal v The Slaves, David of the Cape & Christian of the Cape, 5 January 1815, (C.J.808, p.29-46)  
The first accused, who was approximately 30 years of age, and the second accused, who was approximately 39, were found guilty of concealing stolen goods.  
\* The first accused had a previous conviction for theft dated 15 May 1809.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 10 years. The second accused to be returned to his master.
3. Fiscal v The Bastard Hottentot, Quassa, 12 January 1815, (C.J.808, p.1-16)  
The accused, who was approximately 20 years of age, was found guilty of fraud and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.
4. Fiscal v The Slave, Joseph of the Cape, 12 January 1815, (C.J.808, p.47-60)  
The accused was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
5. Fiscal v 1) The Slave, Adam of the Cape; 2) The Bastard Hottentot, Booy Africander; 3) The Bastard Hottentot, Claas & 4) The Bastard Hottentot, Hendrik, 12 January 1815, (C.J.808, p.61-80)  
The first accused, who was approximately 30 years of age, the second accused, who was approximately 24, the third accused, who was approximately 21, and the fourth accused, who was approximately 18, were found guilty of assault and theft.  
The accused were sentenced to be severely scourged. Thereafter the four accused to be confined in irons and to labour on the public works. The first, second, and third accused for 5 years, and the fourth accused for 3 years.  
\* Fiat Execution : *In view of the fact that the fourth accused implicated the other three and played a minor role in the commission of the crime, he is to be pardoned.*
6. Landdrost of Stellenbosch v The Hottentot, Africander Dirk & The Slave, Jacob from Mocambique, 9 February 1815, (C.J.808, p.81-96)  
The first accused, who was approximately 40 years of age, was found guilty of desertion, vagabondising and theft. The second accused, who was approximately 40 years of age, was found guilty of desertion, vagabondising and stealing with a gang of rogues.  
\* The first accused had a previous conviction for stock theft.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 3 years.

7. Landdrost of Stellenbosch v The Slaves, Evert from Mocambique & Appollos from Bengal, 9 February 1815, (C.J.808, p.97-114)  
The first accused, who was approximately 25 years of age, and the second accused, who was approximately 30, were found guilty of desertion, vagabondising, and the theft of fruit and cattle. (Stock Theft)  
\* The second accused had a previous conviction for wounding his wife.  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *After receiving corporal punishment, the first accused to be returned to his master.*
8. Government Resident of Simonstown v The Slave, Adam from Mocambique, 23 March 1815, (C.J.808, p.115-128)  
The accused, who was approximately 50 years of age, was found guilty of repeatedly pursuing Mary Jobin with the probable intention to rob her of her money.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
9. Fiscal v Henry Priestman, 23 March 1815, (C.J.808, p.129-142)  
The accused, who was 36 years of age and was born in England, was found guilty of forgery.  
Sentenced to be banished for life from the colony.
10. Landdrost of Graaff Reinet v Christiaan Janssen, 23 March 1815, (C.J.808, p.143-154)  
The accused, who was 53 years of age and was born in the colony, was found guilty of the murder of his slave Lea.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : *On 22 June 1815 the appellant lodged an appeal against the sentence with the Court of Criminal Appeals. On 6 February 1816 the Court referred the case back to the Court of Justice with instructions to impose a sentence other than capital punishment. However the prosecutor failed to bring the case before the Court of Justice, and on 10 June 1816 the Court of Criminal Appeals annulled the sentence and ordered the immediate discharge of the accused from prison. (G.H.47/2/12, p.350-699; G.H.47/1/1, p.57 et seq.)*
11. Fiscal v The Slave, Cassiem from Batavia, 20 April 1815, (C.J.808, p.155-172)  
The accused, a former Caffre of Justice, who was approximately 50 years of age, was found guilty of treacherously attempting to murder the Landdrost of Uitenhage.  
\* The accused had a previous conviction for a similar offence dated 8 October 1789. He was sentenced to scourging, branding and confinement in irons for life.  
The accused was sentenced to be hanged by the neck until dead.
12. Landdrost of Stellenbosch v The Slave, Job of the Cape, & The Female Hottentot, Doortje, 27 April 1815, (C.J.808, p.173-198)



The first accused, who was approximately 40 years of age, was found guilty of the murder of the slave Maart. The second accused, who was approximately 25 years of age, was found guilty of having knowledge of the crime.

The first accused was sentenced to be hanged by the neck until dead. The second accused was sentenced to be severely scourged. Thereafter to be confined in prison for 3 months.

13. Fiscal v Albert Wynand Louw, 18 May 1815, (G.H.47/2/6, p.258-370; G.H.47/1/1, p.56 et seq.)

The accused was found guilty of violence and wounding.

Sentenced to be confined in the public prison for 3 months.

\* Court of Criminal Appeals : On 3 June 1815 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 4 September 1815 the appeal was dismissed.

14. Fiscal v The Hottentots : 1) Klaas Joontje; 2) Dapper; 3) Jacob Adonis; 4) Cobus & 5) Slinger, 21 May 1815, (C.J.808, p.211-224)

The first and second accused, who were both approximately 22 years of age, were found guilty of housebreaking and theft. The third accused, who was approximately 24 years of age, and the fourth accused, who was approximately 22, were found guilty of being accomplices. The fifth accused, who was approximately 26 years of age, was found guilty, together with the first four accused, of theft from gardens.

The first, second, third, and fourth accused were sentenced to be severely scourged. Thereafter the first and second accused to be confined in irons and to labour on the public works for 1 year. The fifth accused was sentenced to be severely flogged in prison by the Caffres of Justice and then released.

\* Fiat Execution : With remission of that part of the sentence by which the first two accused were to be confined in irons and to labour on the public works for 1 year.

15. Fiscal v Joze Joachim, 25 May 1815, (C.J.808, p.199-210)

The accused, a sailor, who was 18 years of age and was born in Portugal, was found guilty of mutinous conduct and of an attempt to wound the boatswain on board ship.

Sentenced to be severely flogged. Thereafter to be banished for life from the colony.

16. Fiscal v Michael Coogan, 6 June 1815, (C.J.808, p.225-244)

The accused, who was 19 years of age and was born in England, was found guilty of forgery.

Sentenced to be delivered to the executioner and to be exposed to the public view with a board round his neck, on which was written the word 'Forger'. Thereupon to be severely scourged.

Thereafter to be confined in irons and to labour on the public works for 7 years.

17. Fiscal v The Slave, Jonas from Mocambique, 16 June 1815, (C.J.808, p.245-258)

The accused was found guilty of the murder of his wife Aletta.

Sentenced to be hanged by the neck until dead.

18. Landdrost of Swellendam v The Hottentots, Kieviet Ruiter & Cupido Witbooy, 29 June 1815, (C.J.808, p.259-272)  
The accused, who were both approximately 18 years of age, were found guilty of vagabondising and theft.  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 1 year.
19. Fiscal v The Prize Negro, Maurice from Mocambique, 29 June 1815, (C.J.808, p.273-286)  
The accused, who was approximately 23 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
20. Landdrost of Stellenbosch v The Bastard Hottentot, Fluks, 29 June 1815, (C.J.808, p.287-300)  
The accused, who was approximately 20 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
21. Fiscal v Hendrik Tobias Theron, 13 July 1815, (G.H.47/2/12, p.1-349; G.H.47/1/1, p.58 et seq.)  
The accused was found guilty of treacherous wounding.  
Sentenced to be confined on Robben Island for 12 months.  
\* Court of Criminal Appeals : On 24 July 1815 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 12 February 1816 the Court dismissed the appeal. However, in consequence of the lengthy period of confinement already undergone by the accused, the Court permitted his discharge on the following conditions; that he furnish a personal surety of 500 Rixdollars; that he obtain the sureties of two persons for 250 Rixdollars each; and that he be bound over to keep the peace for 12 months.
22. Landdrost of Stellenbosch v The Hottentot, Cobus Cora, 10 August 1815, (C.J.808, p.301-320)  
The accused, who was approximately 40 years of age, was found guilty of repeated violations of his confinement, sundry thefts out of different gardens, and housebreaking and theft.  
\* The accused had two previous convictions dated 23 January 1813 and 24 September 1813.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 25 years.
23. Landdrost of Swellendam v The Hottentot, Cobus Pedro, 10 August 1815, (C.J.808, p.321-332)  
The accused, who was approximately 20 years of age, was found guilty of drawing his knife against his master, with the intention of wounding him.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.  
\* Fiat Execution : *With remission of the confinement.*

24. Fiscal v The Prize Negro, May from Mocambique, 2 September 1815, (C.J.808, p.333-342)  
The accused, who was approximately 28 years of age, was found guilty of wounding the Negress Persiana.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
25. Landdrost of Stellenbosch v The Female Slave, Rachel of the Cape & The Female Bastard Hottentot, Griet, 4 September 1815, (C.J.808, p.343-366)  
The first accused, who was approximately 23 years of age, secretly gave birth to a child. She was found guilty of an intention or wilful acquiescence and of endeavouring or co-operating to deprive the child of it's life. However, it was impossible to prove whether the infant was born alive or not. The case against the second accused was not proved.  
The accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 20 years.  
\* Fiat Execution : *With remission of the confinement.*
26. Landdrost of Tulbagh v Andries Johannes Burgher Williams, 7 September 1815, (C.J.808, p.367-370)  
The case was heard by the Circuit Court at George.  
The accused found guilty of killing a slave.  
Sentenced to be confined the public prison for 3 months.
27. Landdrost of Stellenbosch v The Slaves : 1) Paris from Madagascar; 2) Francis of the Cape; 3) Floris of the Cape & 4) Spacie of the Cape, 7 September 1815, (C.J.808, p.371-388)  
The first accused, who was approximately 45 years of age, the second accused, who was approximately 30, the third accused, who was approximately 30, and the fourth accused, who was approximately 35, were found guilty of vagabondising in a gang and theft from different gardens. The first and second accused were also found guilty of the theft of cattle. (Stock Theft) The fourth accused was found guilty of being an accomplice to the theft and of receiving stolen goods.  
The accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first, second, and fourth accused to be confined in irons and to labour on the public works. The first and second accused for 5 years, and the fourth accused for 3 years. The third accused to be returned to his master.
28. Landdrost of Tulbagh v The Hottentot, Klaas Keyser, 8 September 1815, (C.J.808, p.389-402)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 20 years of age, was found guilty of the theft of cattle and shooting cattle. The accused was also found guilty of shooting at the Hottentot Piet with poisoned arrows.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

29. Landdrost of Tulbagh v The Hottentot, Fix, 8 September 1815, (C.J.808, p.403-414)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 30 years of age, was found guilty of the theft of sheep. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 6 months.  
\* Fiat Execution : *With remission of the scourging.*
30. Landdrost of Tulbagh v Andries Hoffman, 8 September 1815, (C.J.808, p.415-428)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was 38 years of age and was born in Vienna, was found guilty of maltreating his wife, who subsequently died.  
Sentenced to be confined in the public prison at the Drostdy for 12 months.
31. Landdrost of Tulbagh v Johan Adam Ziedel & Carolina Margaretha Neethling, 8 September 1815, (C.J.808, p.429-432)  
The case was heard by the Circuit Court at Tulbagh.  
The accused were found guilty of incest.  
The first accused was sentenced to be banished from the District of Tulbagh for 5 years. The court further interdicted the accused against cohabiting together.
32. Fiscal v The Prize Negroes, Francis & Roger, 12 September 1815, (C.J.808, p.433-448)  
The accused were found guilty of forcibly resisting the Officers of Justice. The first accused was also found guilty of wounding one of them.  
The first accused was sentenced to be severely scourged. The second accused was sentenced to be severely flogged in the prison by the Caffres of Justice.
33. Landdrost of Tulbagh v Johannes Jacobus Emmenes & Maria Magdalena Van As, 12 September 1815, (C.J.808, p.449-452)  
The case was heard by the Circuit Court at Tulbagh  
The accused were found guilty guilty of incest.  
The first accused was sentenced to be banished from the District of Tulbagh for 5 years. The court further interdicted the accused against cohabiting together.
34. Landdrost of Graaff Reinet v 1) The Slave, Crispin of the Cape; 2) The Hottentot, Jan Booy; 3) The Hottentot, Cupido Kieviet & 4) The Hottentot, Viool, 13 October 1815, (C.J.808, p.453-470)  
The case was heard by the Circuit Court at Graaff Reinet.  
The first, second, and third accused, who were approximately 20 years of age, and the fourth accused, who was approximately 14, were found guilty of repeated horse theft and the theft of cattle. (Stock Theft)  
The first, second, and third accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons for 5 years. The first accused to labour with his master, and the

29. Landdrost of Tulbagh v The Hottentot, Fix, 8 September 1815, (C.J.808, p.403-414)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 30 years of age, was found guilty of the theft of sheep. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 6 months.  
\* Fiat Execution : *With remission of the scourging.*
30. Landdrost of Tulbagh v Andries Hoffman, 8 September 1815, (C.J.808, p.415-428)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was 38 years of age and was born in Vienna, was found guilty of maltreating his wife, who subsequently died.  
Sentenced to be confined in the public prison at the Drostdy for 12 months.
31. Landdrost of Tulbagh v Johan Adam Ziedel & Carolina Margaretha Neethling, 8 September 1815, (C.J.808, p.429-432)  
The case was heard by the Circuit Court at Tulbagh.  
The accused were found guilty of incest.  
The first accused was sentenced to be banished from the District of Tulbagh for 5 years. The court further interdicted the accused against cohabiting together.
32. Fiscal v The Prize Negroes, Francis & Roger, 12 September 1815, (C.J.808, p.433-448)  
The accused were found guilty of forcibly resisting the Officers of Justice. The first accused was also found guilty of wounding one of them.  
The first accused was sentenced to be severely scourged. The second accused was sentenced to be severely flogged in the prison by the Caffres of Justice.
33. Landdrost of Tulbagh v Johannes Jacobus Emmenes & Maria Magdalena Van As, 12 September 1815, (C.J.808, p.449-452)  
The case was heard by the Circuit Court at Tulbagh  
The accused were found guilty guilty of incest.  
The first accused was sentenced to be banished from the District of Tulbagh for 5 years. The court further interdicted the accused against cohabiting together.
34. Landdrost of Graaff Reinet v 1) The Slave, Crispin of the Cape; 2) The Hottentot, Jan Booy; 3) The Hottentot, Cupido Kieviet & 4) The Hottentot, Viool, 13 October 1815, (C.J.808, p.453-470)  
The case was heard by the Circuit Court at Graaff Reinet.  
The first, second, and third accused, who were approximately 20 years of age, and the fourth accused, who was approximately 14, were found guilty of repeated horse theft and the theft of cattle. (Stock Theft)  
The first, second, and third accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons for 5 years. The first accused to labour with his master, and the

second and third accused to labour on the public works at the Drostdy. The fourth accused was sentenced to be domestically corrected.

35. Landdrost of Graaff Reinet v The Hottentot, Joris, 13 October 1815, (C.J.808, p.471-482)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 20 years of age, was found guilty of horse theft and theft from a waggon on the highway.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 3 years.

36. Landdrost of Graaff Reinet v The Slave, Lubin, 14 October 1815, (C.J.808, p.483-484)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 40 years of age, was found guilty of repeated theft.

Sentenced to be severely scourged. Thereafter to be confined in irons for 6 months and to labour in the service of his mistress.

37. Landdrost of Graaff Reinet v The Female Hottentot, Jacomyn, 14 October 1815, (C.J.808, p.495-510)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 26 years of age, was found guilty of infusing poison in milk and coffee, with the intention of poisoning her master and mistress.

Sentenced to be severely scourged. Thereafter to be confined in some secure place for 12 months.

38. Landdrost of Graaff Reinet v The Hottentots, Plaatje & Ruyter, 17 October 1815, (C.J.808, p.537-548)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 25 years of age, and the second accused, who was approximately 15, were found guilty of the theft of sheep and of ill-treating the Bushman Orange.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 6 years. The second accused was sentenced to be severely flogged in the prison by the Caffres of Justice and then released.

39. Landdrost of Graaff Reinet v The Hottentots : 1) Jacob Amo; 2) Klaas Flamink & 3) Piet Stalmeester, 18 October 1815, (C.J.808, p.511-536)

The Case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 24 years of age, the second accused, who was approximately 30, and the third accused, who was approximately 20, were found guilty of harbouring Hottentot deserters and of making resistance. The second and third accused were also found guilty of firing at those who came to retake the vagabonds.

The accused were sentenced to be severely scourged. The second accused to be branded. Thereafter the three accused to be confined

in irons and to labour on the public works. The first accused for 3 years, the second accused for 8 years, and the third accused for 5 years.

40. Landdrost of George v The Hottentot, Gerrit, 18 December 1815, (C.J.808, p.549-562)

The case was heard by the Circuit Court at George.

The accused, who was between 25 and 30 years of age, was found guilty of vagabondising, theft of cattle and fruit, and of robbing a mill.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

#### 1816

1. Landdrost of Swellendam v The Hottentots, Fredrik & Jacob, 6 January 1816, (C.J.809, p.5-20)

The case was heard by the Circuit Court at Swellendam.

The first accused, who was approximately 30 years of age, was found guilty of housebreaking and theft. The second accused, who was approximately 45 years of age, was found guilty of being an accomplice.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years. The second accused was sentenced to be severely flogged in the prison by the Caffres of Justice and then released.

2. Landdrost of Swellendam v 1) The Hottentot, Piet Marcus; 2) The Slave, Cupido from Mocambique; 3) The Slave, Jan Weyers of the Cape & 4) The Female Hottentot, Kaatje Marcus, 8 January 1816, (C.J.809, p.21-38)

The case was heard by the Circuit Court at Swellendam.

The first accused, who was approximately 20 years of age, the second accused, who was approximately 45, and the third accused, who was approximately 40, were found guilty of the theft of sheep. The fourth accused, who was approximately 40 years of age, was found guilty of being an accomplice and of having partaken in the stolen property.

The first, second, and third accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works for 2 years. The second and third accused to be confined in irons and to labour with their masters for 1 Year. After witnessing the punishment, the fourth accused was sentenced to be severely flogged in prison by the Caffres of Justice. Thereafter to be confined in some secure place for 1 year.

3. Landdrost of Swellendam v The Hottentot, Jochem Janzen, 8 January 1816, (C.J.809, p.59-72)

The case was heard by the Circuit Court at Swellendam.

The accused, who was approximately 30 years of age, was found guilty of the repeated theft of sheep. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

4. Landdrost of Swellendam v The Hottentot, Adam Jacob, 8 January 1816, (C.J.809, p.73-86)  
The case was heard by the Circuit Court at Swellendam.  
The accused, who was approximately 20 years of age, was found guilty of vagabondising and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
5. Landdrost of Swellendam v The Hottentot, Joshua Julius, 9 January 1816, (C.J.809, p.39-58)  
The case was heard by the Circuit Court at Swellendam.  
The accused, who was approximately 25 years of age, was found guilty of wounding the Hottentot Paulus Rogerts.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.  
\* Fiat Execution : *With remission of the punishment.*
6. Landdrost of Uitenhage v 1) Hendrik Fredrik Prinsloo; 2) Stephanus Cornelis Bothma; 3) Cornelis Johannes Faber; 4) Theunis Christiaan de Klerk; 5) Abraham Carel Bothma; 6) William Fredrik Krugel; 7) Frans Marais; 8) Adrian Engelbrecht; 9) Andries Meyer; 10) Andries Hendrik Klopper; 11) Nicolaas Balthazar Prinsloo; 12) Martha Faber; 13) David Malan; 14) Hendrik Petrus Klopper; 15) Johannes Bronkhorst; 16) Thomas Andries Dreijer; 17) Petrus Laurens Erasmus; 18) Hendrik Andries Gustavus van der Nest; 19) Pieter Willemse Prinsloo; 20) Andries van Dijk; 21) Willem Jacobus Prinsloo; 22) Johannes Prinsloo; 23) Cornelis van der Nest; 24) Philip Rudolph Botha; 25) Christoffel Rudolph Botha; 26) Abraham Lodivicus Botha; 27) Pieter Jacobus Delpont; 28) Jacobus Marthinus Klopper; 29) Johan Theunis Muller; 30) Hendrik Johannes Liebenberg; 31) Johannes Frederik Botha; 32) Joachim Johannes Prinsloo; 33) Willem Adriaan Nel; 34) Adriaan Labuscagne; 35) Leendert Labuscagne; 36) Barend de Lange; 37) Frans Johannes van Dijk; 38) Gerrit Coenraad Bezuidenhout & 39) Claas Prinsloo, 22 January 1816, (C.J.809, p.87-328)  
The case was heard by a Special Commission of Justice at Uitenhage.  
The first, second, third, fourth, and fifth accused were found guilty of High Treason.  
The remaining thirty four accused were found guilty, each in different degrees, of violation of the Supreme Authority, rebellion, open violence, and disturbing the public peace.  
The accused, with the exception of Martha Faber, were sentenced to be taken to the hill situated near the Post of Captain Andrews, where the criminal oath was taken by the sixth prisoner before and in the name of the assembled rebels. The first, second, third, fourth, fifth, and sixth accused to be hanged by the neck until dead. Thereupon the corpses of the first five accused to be buried under the gallows. The corpse of the sixth accused to be placed in a coffin and delivered to his family. The seventh accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the other accused, to witness the execution. The seventh, eighth, ninth, and tenth accused to be banished from the colony. The



seventh accused for life, the eighth and ninth accused for 7 years, and the tenth accused for 5 years. The eleventh accused to be confined to labour on the public works at Robben Island for 3 years and afterwards to be banished for life from the Districts of Graaff Reinet and Uitenhage. The twelfth accused was sentenced to leave the District and to take up residence 'more within the colony'. The thirteenth accused was sentenced to be confined to labour on the public works at Robben Island for 3 years. The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth accused were sentenced to be confined to labour on the public works at Robben Island for 1 year. The twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, and twenty-ninth accused were each sentenced to pay a fine of 200 Rixdollars or to be confined in the prison at the Drostdy for 4 months. The thirtieth, thirty-first, and thirty-second accused were each sentenced to pay a fine of 100 Rixdollars or to be confined in the prison at the Drostdy for 2 months. The thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, and thirty-ninth accused were each sentenced to pay a fine of 50 Rixdollars or to be confined in prison for 1 month. In addition to having to pay the costs of the prosecution, the accused were ordered to pay the costs and damages occasioned by the rebellion. Furthermore the Court ordered the confiscation of all the ammunition found at the Winterberg, together with the wagons.

\* Fiat Execution : *With the following exceptions :*

*The sixth accused to be transported for life.*

*The eleventh, thirteenth, and nineteenth accused to be banished for ever from Graaff Reinet, Uitenhage and George.*

*The tenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-eighth, thirty-first, thirty-second, thirty-third, thirty-seventh, and thirty-ninth accused to be conducted to the place of execution in a separate body, under the charge of the Officers of Justice, and to witness the execution without being brought on the scaffold and exposed ignominiously; after which the accused to be released, and all further punishment remitted.*

7. Landdrost of The Cape District v The Slave, Patientie from Mocambique, 8 February 1816, (C.J.809, p.329-344)

The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

8. Landdrost of the Cape District v The Slave, Carolus of the Cape & The Hottentot, Jan Cornelis, 8 February 1816, (C.J.809, p.405-418)

The accused, who were both approximately 30 years of age, were found guilty of vagabondising and theft of sheep. (Stock Theft)

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 1 year.

\* Fiat Execution : *With remission of the confinement.*

9. Fiscal v The Female Slave, Adriana of the Cape, 22 February 1816, (C.J.809, p.345-362)  
The accused was found guilty of fraud and theft.  
\* The accused had a previous conviction for receiving stolen goods dated 23 January 1813.  
Sentenced to be severely scourged and then returned to her mistress.
10. Landdrost of The Cape District v The Slave, Philip of the Cape, 9 May 1816, (C.J.809, p.363-378)  
The accused, who was approximately 30 years of age, was found guilty of wounding the slave Europa and of making resistance to his master.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
11. Landdrost of Tulbagh v The Hottentots, Hans Booy & Jas, 30 May 1816, (C.J.809, p.379-390)  
The first accused, who was approximately 40 years of age, and the second accused, who was approximately 14, were found guilty of vagabondising and the theft of cattle. (Stock Theft)  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year. After witnessing the punishment, the second accused was sentenced to be severely flogged in prison by the Caffres of Justice.
12. Government Resident of Simonstown v The Slave, November from Mocambique, 30 May 1816, (C.J.809, p.391-404)  
The accused, who was approximately 30 years of age, was found guilty of murder and theft.  
Sentenced to be hanged by the neck until dead.
13. Fiscal v The Slave, Domingo from Bengal, 13 June 1816, (C.J.809, p.419-430)  
The accused, who was approximately 50 years of age, was found guilty of receiving stolen goods.  
Sentenced to be severely scourged and then returned to his master.  
\* Fiat Execution : With the punishment remitted on account of the accused's good character.
14. Fiscal v The Slave, Fredrik of the Cape, 13 June 1816, (C.J.809, p.431-444)  
The accused, who was approximately 19 years of age, was found guilty of rambling about on his master's horse, the use of which he had obtained in a fraudulent manner.  
Sentenced to be severely scourged and then returned to his master.  
\* Fiat Execution : With the punishment remitted and the accused to be flogged in prison by the Caffres of Justice.
15. Fiscal v The Slave, January from Mocambique & The Prize Negro, May, 13 June 1816, (C.J.809, p.445-470)  
The first accused, who was approximately 35 years of age, was found guilty of murder. The second accused was absolved from

further prosecution and discharged from custody.

The first accused was sentenced to be hanged by the neck until dead.

16. Landdrost of Stellenbosch v 1) The Slave, Patientie of the Cape; 2) The Slave, David from Mocambique & 3) The Hottentot, Platje, 11 July 1816, (C.J.809, p.471-484)

The first accused, who was approximately 50 years of age, the second accused, and the third accused, who were both approximately 30, were found guilty of vagabondising. The first and second accused were also found guilty of the theft of sheep, and the third accused of participating therein. (Stock Theft)

The first and second accused were sentenced to be severely scourged and then returned to their masters. After witnessing the punishment, the third accused was sentenced to be severely flogged in prison by the Caffres of Justice.

17. Landdrost of Tulbagh v The Female Hottentot, Lea, 25 July 1816, (C.J.809, p.485-494)

The accused, who was approximately 14 years of age, was found guilty of setting fire to a house. (Arson)

Sentenced to be severely scourged. Thereafter to be confined in prison for 6 months.

\* Fiat Execution : *With remission of the imprisonment.*

18. Landdrost of The Cape District v The Slave, January of the Cape, 25 July 1816, (C.J.809, p.495-508)

The accused, who was approximately 40 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his master.

19. Landdrost of The Cape District v The Hottentot Convict, Jan, 22 August 1816, (C.J.809, p.509-522)

The accused, who was approximately 45 years of age, was found guilty of wandering about with a murderous weapon, theft from gardens, and of offering forcible resistance at the time of his apprehension.

\* The accused had two previous convictions for theft dated 7 September 1805 and 10 October 1812.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

\* Fiat Execution : *With the confinement to be restricted to 5 years.*

20. Fiscal v The Slave, Pierre of the Cape & The Prize Negro, May from Mocambique, 27 August 1816, (C.J.809, p.523-536)

The first accused, who was approximately 15 years of age, and the second accused, who was approximately 16, were found guilty of housebreaking and theft.

The accused were sentenced to be severely scourged and then returned to their masters.

21. Fiscal v The Hottentot, Laptoe, 27 August 1816, (C.J.809, p.537-548)  
The accused, who was approximately 16 years of age, was found guilty of theft.  
\* The accused had a previous conviction for theft dated 29 January 1814.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With the confinement remitted to 2 years.*
22. Fiscal v The Female Hottentot, Lys, 27 August 1816, (C.J.809, p.549-562)  
The accused, who was approximately 22 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then discharged.
23. Fiscal v The Slave, Welkom from Ceylon, 2 September 1816, (C.J.809, p.563-576)  
The accused, who was approximately 30 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
24. Fiscal v The Slave, Apollos of the Cape, 2 September 1816, (C.J.809, p.577-588)  
The accused, who was approximately 25 years of age, was found guilty of endeavouring to ravish a married Christian woman. (Attempted Rape)  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : *With remission of the punishment. The accused to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 7 years.*
25. Landdrost of Tulbagh v Johannes Hendrik van Graan, 2 September 1816, (C.J.809, p.1005-1029)  
The accused, who was approximately 38 years of age, was found guilty of the utmost endeavour to deprive his wife of her life and of actually and most dangerously wounding her with a mortal weapon. (Attempted Murder)  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be banished for life from the colony.  
\* Court of Criminal Appeals : *On 14 September 1816 the accused lodged an appeal against the sentence with the Court of Criminal Appeals. On 30 December 1816 the appeal was dismissed. (G.H.47/2/13, p.202-406; G.H.47/1/1, p.71 et seq.)*
26. Landdrost of Tulbagh v The Female Hottentot, Lea, 5 September 1816, (C.J.809, p.589-602)  
The accused, who was approximately 45 years of age, was found guilty of wounding a person, which resulted in death.  
Sentenced to be severely scourged. Thereafter to be confined in some secure place for 5 years.  
\* Fiat Execution : *With the term of confinement reduced to 1 year.*

27. Landdrost of The Cape District v The Hottentot, Klaas Baatjoe, 5 September 1816, (C.J.809, p.603-615)  
The accused, who was approximately 26 years of age, was found guilty of receiving stolen horses.  
Sentenced to be severely scourged and then discharged.
28. Fiscal v The Slave, Azor of the Cape, 9 September 1816, (C.J.809, p.616-628)  
The accused, who was approximately 24 years of age, was found guilty of committing violence on the person of a married Christian woman, with the intention of ravishing her. (Attempted Rape)  
Sentenced to be hanged by the neck until dead.  
*\* Fiat Execution : With remission of the punishment. The accused to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.*
29. Fiscal v Edward Rawlings, 9 September 1816, (C.J.809, p.629-644)  
The accused, who was 27 years of age and was born in England, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.
30. Landdrost of Swellendam v The Hottentot, Platje, 9 September 1816, (C.J.809, p.645-658)  
The accused, who was approximately 30 years of age, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.
31. Fiscal v The Slave, Mentor from Cochin, 14 September 1816, (C.J.809, p.673-684)  
The accused, who was approximately 35 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his mistress.
32. Landdrost of Stellenbosch v The Slave, Aron of Mocambique, 18 September 1816, (C.J.809, p.659-672)  
The accused, who was approximately 35 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
33. Landdrost of Tulbagh v The Hottentot, Jaapie, 26 September 1816, (C.J.809, p.685-698)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 40 years of age, was found guilty of vagabondising and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.  
*\* Fiat Execution : With remission of the confinement to 1 Year.*
34. Landdrost of Tulbagh v The Hottentots, Dikkop Liebergeld & Schipper Smit, 27 September 1816, (C.J.809, p.699-710)  
The case was heard by the Circuit Court at Tulbagh.  
The first accused, who was approximately 25 years of age, and the

second accused, who was approximately 30, were found guilty of vagabondising and theft of cattle. (Stock Theft)

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With the first accused's sentence remitted and the second accused's sentence of confinement reduced to 1 year.*

35. Landdrost of Tulbagh v The Hottentots, Hermanus & Platje, 27 September 1816, (C.J.809, p.711-724)

The case was heard by the Circuit Court at Tulbagh.

The accused, who were both approximately 20 years of age, were found guilty of deserting from their masters and repeated theft of cattle. (Stock Theft)

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 6 years.

36. Landdrost of Tulbagh v The Hottentot, Frolyk, 27 September 1816, (C.J.800, p.725-736)

The case was heard by the Circuit Court at Tulbagh.

The accused, who was approximately 50 years of age, was found guilty of vagabondising and theft of cattle. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With the confinement reduced to 1 year.*

37. Landdrost of Graaff Reinet v The Hottentots : 1) Joris; 2) Valentyn; 3) Snel; 4) Philip; 5) Flamink; 6) Joseph; 7) Dirk Jantje; 8) Platje; 9) Anthonie; The Female Hottentots : 10) Catryn; 11) Roos; 12) Aploon; 13) Sarah; 14) Groote Roselyn; 15) Doortje & 16) Kleine Roselyn, 24 October 1816, (C.J.809, p.737-762)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of vagabondising and repeated theft of cattle. (Stock Theft)

The first, second, third, fourth, fifth, sixth, seventh, eighth, and ninth accused were sentenced to be severely scourged. The third and fourth accused to be branded. The second, third, fourth, fifth, sixth, seventh, eighth, and ninth accused to be confined in irons and to labour on the public works. The third and fourth accused for 10 years, the second and fifth accused for 5 years, and the sixth, seventh, eighth, and ninth accused for 3 years. After receiving the scourging, the first accused to be discharged. The tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth accused were sentenced to be flogged in prison by the Caffres of Justice.

38. Landdrost of Graaff Reinet v The Hottentot, Ruyter, 26 October 1816, (C.J.809, p.763-776)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 18 years of age, was found guilty of vagabondising and repeated theft of cattle. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

39. Landdrost of Graaff Reinet v The Hottentot, Flink, 28 October 1816, (C.J.809, p.777-786)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 25 years of age, was found guilty of desertion and theft, accompanied with violence.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

40. Landdrost of Uitenhage v The Hottentot, Willem Bruintjies, 13 November 1816, (C.J.809, p.797-806)

The case was heard by the Circuit Court at Uitenhage.

The accused was found guilty of wounding.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

41. Landdrost of Uitenhage v The Hottentot, Booy, 14 November 1816, (C.J.809, p.77-796)

The case was heard by the Circuit Court at Uitenhage.

The accused, who was approximately 20 years of age, was found guilty of repeated theft and falsity.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

42. Landdrost of Swellendam v The Slave, Achilles from Mocambique & The Female Hottentot, Jannetje, 14 December 1816, (C.J.809, p.807-818)

The case was heard by the Circuit Court at Swellendam.

The accused were found guilty of vagabondising and theft of sheep. (Stock Theft)

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 12 months. The second accused was set at liberty.

43. Landdrost of Swellendam v The Slave, Jephta of the Cape, 14 December 1816, (C.J.809, p.819-830)

The case was heard by the Circuit Court at Swellendam.

The accused, who was approximately 26 years of age, was found guilty of repeated housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 2 years.

44. Landdrost of Swellendam v The Hottentot, Jan Mager, 16 December 1816, (C.J.809, p.831-852)

The case was heard by the Circuit Court at Swellendam.

The accused, who was approximately 22 years of age, was found guilty of fraud and horse theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

45. Landdrost of Tulbagh v The Slave, Mozes of the Cape, 17 December 1816, (C.J.809, p.853-866)  
The accused was found guilty of murder.  
Sentenced to be hanged by the neck until dead.
46. Landdrost of Graaff Reinet v The Hottentot, Michiel, 17 December 1816, (C.J.809, p.867-882)  
The accused, who was approximately 25 years of age, was found guilty of murder and the theft of cattle.  
Sentenced to be hanged by the neck until dead.
47. Fiscal v John Nelson, 17 December 1816, (C.J.809, p.883-898)  
The accused, who was 40 years of age and was born in Norway, was found guilty of fraud and theft.  
Sentenced to be severely scourged.
48. Landdrost of Stellenbosch v 1) The Slave, Spadille of the Cape; 2) The Female Hottentot, Fytjie; 3) The Slave, Samuel from Mocambique; 4) The Slave, Gezwind from Mocambique & 5) The Female Hottentot, Griet, 17 December 1816, (C.J.809, p.899-928)  
The first accused, who was approximately 35 years of age, and the second accused, who was approximately 20, were found guilty of housebreaking and theft. The third accused, who was approximately 25 years of age, the fourth accused, who was approximately 30, and the fifth accused, who was approximately 50, were found guilty of being accomplices.  
The first, second, third, and fifth accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first, second, and third accused to be confined in irons and to labour on the public works. The first and second accused for 5 years, and the third accused for 3 years. After witnessing the punishment, the fourth accused was sentenced to be severely flogged in prison by the Caffres of Justice and then returned to his master.
49. Landdrost of Stellenbosch v The Slave, November from Mocambique, 17 December 1816, (C.J.809, p.929-942)  
The accused, who was approximately 25 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With the confinement reduced to 3 years.*
50. Landdrost of Stellenbosch v 1) The Hottentot, Jan Jantje; 2) The Slave, Adonis from Mocambique & 3) The Slave, Damon from Mocambique, 17 December 1816, (C.J.809, p.943-958)  
The first accused, who was approximately 17 years of age, the second accused, who was approximately 30, and the third accused, who was approximately 30, were found guilty of theft. The first accused was also found guilty of housebreaking and theft.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 3 years, and the second and third accused for 1 year.



51. Landdrost of The Cape District v The Hottentot, Gerrit Booy, 17 December 1816, (C.J.809, p.959-976)  
The accused, who was approximately 35 years of age, was found guilty of wounding the Prize Negro April, which resulted in his death. (Culpable Homicide)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With remission of the confinement.*
52. Fiscal v The Slave, George of the Cape, 17 December 1816, (C.J.809, p.977-992)  
The accused, who was approximately 18 years of age, was found guilty of horse theft. (Stock Theft)  
Sentenced to be severely scourged and then returned to his master.  
\* Fiat Execution : *With the scourging to be administered in private.*
53. Landdrost of Stellenbosch v The Hottentot, Platje Drengel, 17 December 1816, (C.J.809, p.993-1004)  
The accused, who was approximately 30 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then set at liberty.

#### 1817

1. Fiscal v Bernard Hoffman, 30 January 1817, (G.H. 47/2/14, p.303-485; G.H. 47/1/1, p.75 et seq.)  
The accused was found guilty of making disrespectful allegations against the Members of the Insolvent Estates Chamber. (Contravention of the placaat dated 3 September 1792)  
The accused was sentenced to imprisonment for 1 month at his own expense and to pay a fine of 50 Rixdollars.
2. Fiscal v John Joshua Vermaak, 30 January 1817, (G.H. 47/2/13, p.1-201; G.H. 47/2/20, p.1-359 & G.H. 47/1/1, p.63 et seq.)  
The accused was found guilty of arbitrarily obstructing the passage of a public road. The accused was also found guilty of disobedience to the lawful commands of the Landdrost of Stellenbosch and of disrespect shown to him.  
The accused was sentenced to pay a fine of 500 Rixdollars.  
Court of Criminal Appeals : *On 3 February 1817 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 13 May 1817 the Court dismissed the appeal.*
3. Landdrost of Stellenbosch v The Slave, Jacob from Mocambique, 20 February 1817, (C.J.810, p.13-36)  
The accused, who was approximately 25 years of age, was found guilty of threatening the life of his master, making forcible resistance against the Field-Cornet, and wounding.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

4. Government Resident of Simonstown v John Gunns, 6 March 1817, (C.J.810, p.37-46)  
The accused, a servant on board the Hyena, who was 20 years of age and was born in Buenos Aires, was found guilty of theft.  
Sentenced to be severely scourged and then to be given up to the Captain of the Hyena.
5. Fiscal v Jan Cerf, 6 March 1817, (C.J.810, p.47-58)  
The accused, who was 21 years of age and was born in Mauritius, was found guilty of theft.  
Sentenced to be severely scourged and then discharged.
6. Landdrost of The Cape District v The Hottentot, Hendrik Tarantaal, 24 March 1817, (C.J.810, p.1-8 & 109-116)  
The accused, who was approximately 45 years of age, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.
7. Fiscal v The Slave, Japie of the Cape, 24 March 1817, (C.J.810, p.59-76)  
The accused was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.  
\* Fiat Execution : *To be liberated and returned to his master after pronouncement of the sentence.*
8. Fiscal v Johannes Marthinus Verlee, 24 March 1817, (C.J.810, p.77-94)  
The accused, who was 30 years of age, was found guilty of purchasing gunpowder from a non-commissioned officer, who could not have sold it without having stolen it. The accused was also found guilty of endeavouring to seduce the said person to commit fraud and theft.  
Sentenced to be severely scourged. Thereafter to be banished for life from the colony.  
\* Fiat Execution : *With remission of the scourging.*
9. Fiscal v 1) Paul Christian Wolmerans; 2) Frans Johannes Roode; 4) Johan Engelhard Stauffers & 4) The Slave, Adam of the Cape, 24 March 1817, (C.J.810, p.95-108)  
The first accused was found guilty of theft. The second and third accused were found guilty of being accomplices. The fourth accused was found guilty of concealing the stolen goods.  
\* The first accused had a number of previous convictions.  
The first accused was sentenced to be banished for life from the colony. The second and third accused were sentenced to be severely flogged in prison by the Constables. The fourth accused was sentenced to be severely flogged in prison by the Caffres of Justice.
10. Fiscal v The Slave, Welkom from Ceylon, 24 March 1817, (C.J.810, p.117-126)  
The accused was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in

irons and to labour on the public works for 3 years.

\* Fiat Execution : *With remission of the confinement.*

11. Landdrost of Graaff Reinet v The Bushman, Danzer Africaaner, 24 March 1817, (C.J.810, p.127-140)  
The accused was found guilty of the murder of the Hottentot Windvogel.  
Sentenced to be hanged by the neck until dead.
12. Landdrost of Swellendam v The Hottentot, Hendrik Cupido & Alida Maria Gunter, 24 March 1817, (C.J.810, p.141-150)  
The first accused, who was approximately 25 years of age, and the second accused, who was 19, were found guilty of fornication. The first accused was also found guilty of seduction.  
The first accused was sentenced to be confined in irons and to labour on the public works for 1 year. The second accused was sentenced to be confined in prison for 6 months.  
\* Fiat Execution : *With the punishment remitted.*
13. Landdrost of The Cape District v The Female Hottentot, Jacomyn, 24 March 1817, (C.J.810, p.151-164)  
The accused, who was approximately 35 years of age, was found guilty of excessively and cruelly chastising the child Platje, which appeared to have caused his death. (Culpable Homicide)  
Sentenced to be severely scourged and then set at liberty.
14. Fiscal v The Slave, Fredrik of the Cape, 24 March 1817, (C.J.810, p.179-190)  
The accused was found guilty of desertion and horse theft. (Stock Theft)  
\* The accused had a previous conviction for a similar offence dated 13 June 1816.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.
15. Landdrost of Stellenbosch v The Slave, Absalon of the Cape, 24 March 1817, (C.J.810, p.165-178)  
The accused, who was approximately 25 years of age, was found guilty of shooting his concubine by accident. (Culpable Homicide)  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 20 years.  
\* Fiat Execution : *With remission of the confinement.*
16. Fiscal v The Slave, Roeboe of the Cape, 24 March 1817, (C.J.810, p.191-202)  
The accused, who was approximately 16 years of age, was found guilty of desertion and horse theft. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : *With remission of the confinement to 1 year.*
17. Fiscal v Hendrik Barend Neyhoff, 27 March 1817, (G.H.47/2/17. p.1-242; G.H.47/1/1, et seq.)  
The accused was found guilty of assisting domestic thefts by

receiving forage from a slave, who had stolen it from his master.

\* The accused had a previous conviction for a similar offence dated 9 February 1797.

Sentenced to be severely flogged in prison by the Constables. The accused was declared to be unworthy of continuing in his employment as Captain of the Night Watchmen and also ineligible to serve the public in any honourable position.

\* Court of Criminal Appeals : On 31 March 1817 the appellant lodged an appeal against his conviction and sentence with the Court of Criminal Appeals. On 9 June 1817 the appeal was dismissed.

18. Fiscal v George Garnet Huske Munnings, 24 April 1817, (G.H.47/2/17, p.243-386; G.H.47/1/1, p.77 et seq.)

The accused was found guilty of harbouring a deserter on board ship. (Contravention of the Proclamation dated 16 October 1795)

The accused was also found guilty of indiscreet and insulting conduct towards the Commissioners of the Court.

Sentenced to pay a fine of 500 Rixdollars. For the indiscreet and insulting behaviour, the accused was sentenced to pay a fine of 1000 Guilders.

\* Court of Criminal Appeals : On 28 April 1817 the accused lodged an appeal against his conviction and sentence with the Court of Criminal Appeals. On 28 November 1817 the appeal was dismissed.

19. Fiscal v Francis Shortt, 24 April 1817, (G.H.47/2/14, p.97-302; G.H.47/1/1, p.77 et eq.)

The accused was found guilty of harbouring Prize Negroes. (Contravention of the Proclamation dated 7 June 1814). The accused was also found guilty of harbouring a slave. (Contravention of the Proclamation dated 22 August 1794)

The accused was sentenced to pay a fine of 500 Rixdollars for harbouring the Prize Negroes, and 14 days imprisonment for harbouring a slave.

\* Court of Criminal Appeals : On 28 April 1817 the accused lodged an appeal against conviction and sentence with the Court of Criminal Appeals. On 28 November 1817 the appeal was dismissed.

20. Landdrost of Tulbagh v Jan Peters, 22 May 1817, (C.J.810, p.203-220)

The accused, who was 24 years of age and was born in Alsace, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be banished for life from the colony.

21. Fiscal v The Slave, April from Sambawa, 29 May 1817, (C.J.810, p.221-232)

The accused, who was approximately 50 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his master.

\* Fiat Execution : After promulgation, the sentence to be remitted and the accused to be returned to his master.

22. Fiscal v The Bastard Hottentot, Mozes Titus, 29 May 1817, (C.J.810, p.233-248)  
The accused was found guilty of theft.  
\* The accused had a previous conviction dated 16 July 1812.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
23. Government Resident of Simonstown v The Hottentot, Klaas Batjoe, 29 May 1817, (C.J.810, p.249-264)  
The accused, who was approximately 25 years of age, was found guilty of making a forcible attack on the highway.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : *With remission of the confinement to 1 year.*
24. Fiscal v The Slave, Thomas of the Cape, 29 May 1817, (C.J.810, p.265-276)  
The accused, who was approximately 34 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
25. Fiscal v John Blay, 2 June 1817, (C.J.810, p.27-47)  
The accused, who was 47 years of age and was born in England, was found guilty of the nearest attempt to ravish Mary Anne Mackay. (Attempted Rape)  
Sentenced to be severely scourged. Thereafter to be banished for life from the colony.  
\* Court of Criminal Appeals : *On 25 August 1817 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 28 November 1817 the appeal was dismissed. (G.H.47/2/15, p.1-187; G.H.47/1/1, p.87 et seq.)*
26. Landdrost of Swellendam v The Hottentot, Hannes Steenbok & The Female Hottentot, Sanna, 19 June 1817, (C.J.810, p.277-290)  
The first accused, who was approximately 25 years of age, was found guilty of vagabondising and theft of sheep. (Stock Theft)  
The second accused, who approximately 20 years of age, was found guilty of partaking in the stolen meat.  
The first accused was sentenced to be severely scourged. The second accused was sentenced to be flogged in prison by the Caffres of Justice.  
\* Fiat Execution : *With remission of the flogging imposed on the second accused.*
27. Fiscal v Henry Mays & The Bastard Hottentot, William Marjan, 25 June 1817, (C.J.810, p.291-304)  
The first accused, who was 25 years of age and was born in England, and the second accused, who was 19 years of age, were found guilty of housebreaking and theft.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be banished for life from the colony.

28. Landdrost of Stellenbosch v Hermanus Joshua Vermaak, 10 July 1817, (G.H.47/2/15, p.188-480; G.H.47/1/1, p.85 et seq.)  
The accused was found guilty of ill-treating a slave, which resulted in his death.  
Sentenced to be confined in prison for 6 weeks. The slave, who lodged the complaint against the accused, was ordered to be judicially sold under the condition that he was never again to come under the power of the accused or his family.  
\* Court of Criminal Appeals : On 14 July 1817 the accused lodged an appeal against conviction and sentence with the Court of Criminal Appeals. On 28 November 1817 the appeal was dismissed.
29. Fiscal v Jean Baptist Garein & Olivier Lancelot, 17 July 1817, (C.J.810, p.305-328)  
The first accused, who was 27 years of age and was born in Toulon, and the second accused, who was 26 years of age and was born in France, were found guilty of theft.  
The accused were sentenced to be severely scourged.  
\* Fiat Execution : With remission of the corporal punishment.
30. Landdrost of The Cape District v The Slaves : 1) Jamies of the Cape; 2) Piet Scheepers of the Cape; 3) November from Mocambique; 4) The Hottentot, Alexander & 5) The Female Bushman, Lena, 21 July 1817, (C.J.810, p.329-350)  
The first accused, who was approximately 20 years of age, was found guilty of murder. The second accused, who was approximately 20, the third accused, who was approximately 40, the fourth accused, who was approximately 25, and the fifth accused, who was approximately 20, were found guilty of desertion and vagabondising.  
The first accused was sentenced to be hanged by the neck until dead. The second, third, and fourth accused were sentenced to be severely scourged and then returned to their masters. As the fifth accused evinced symptoms of insanity during her confinement, she was discharged.
31. Landdrost of Stellenbosch v The Slave, Masonie from Mocambique, 21 July 1817, (C.J.810, p.351-366)  
The accused, who was approximately 26 years of age, was found guilty of manslaughter. (Culpable Homicide)  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
32. Landdrost of The Cape District v The Slave, Francois of the Cape, 21 July 1817, (C.J.810, p.367-376)  
The accused, who was approximately 25 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
33. Landdrost of The Cape District v The Slave, Azor from Mocambique, 21 July 1817, (C.J.810, p.377-388)  
The accused, who was approximately 30 years of age, was found guilty of theft, accompanied by resistance at the time of

apprehension.

Sentenced to be severely scourged and then returned to his master.

34. Landdrost of The Cape District v The Slave, Apollos from Mocambique, 7 August 1817, (C.J.810, p.389-398)

The accused, who was approximately 25 years of age, was found guilty of desertion, vagabondising with a gang, and theft from gardens.

Sentenced to be severely scourged and then returned to his master.

35. Fiscal v The Female Slave, Doortje from Bengal, 7 August 1817, (C.J.810, p.399-412)

The accused, who was approximately 30 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to her master.

36. Landdrost of The Cape District v The Slave, George of the Cape, 11 August 1817, (C.J.810, p.413-442)

The accused, who was approximately 18 years of age, was found guilty of murder and of having made an attempt on the life of his master with the same knife.

Sentenced to be hanged by the neck until dead.

37. Landdrost of Uitenhage v The Hottentot, David Cobus, 21 August 1817, (C.J.810, p.443-452)

The accused, who was approximately 28 years of age, was found guilty of the theft of cattle. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the confinement to 3 years.*

38. Landdrost of Uitenhage v The Hottentot, Gerrit Boezak (Alias Gerrit Soldaat), 21 August 1817, (C.J.810, p.453-462)

The accused was found guilty of the theft of sheep. (Stock Theft)

Sentenced to be severely scourged and then set at liberty.

39. Landdrost of Stellenbosch v William Holmes, 21 August 1817, (C.J.810, p.463-486)

The accused, who was 21 years of age and was born in Ireland, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be banished from the colony for life.

40. Fiscal v The Slave, Snel from Mocambique, 21 August 1817, (C.J.810, p.487-496)

The accused, who was approximately 30 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his master.

41. Fiscal v The Slave, Maart from Mocambique, 26 August 1817, (C.J.810, p.497-508)

The accused, who was approximately 35 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his mistress.

43. Fiscal v The Slaves, Bram of the Cape & Carolus of the Cape, 26 August 1817, (C.J.810, p.509-530)  
The first accused, who was approximately 35 years of age, and the second accused, who was approximately 30, were found guilty of theft.  
\* Both the accused had previous convictions.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for life, and the second accused for 3 years.
44. Fiscal v The Slave, David of the Cape, 4 September 1817, (C.J.810, p.531-554)  
The accused, who was approximately 28 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With remission of the punishment.*
45. Landdrost of Tulbagh v The Slave, Aron of the Cape, 18 September 1817, (C.J.810, p.555-604)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 12 years of age, was found guilty of setting fire to his master's house, with the intention of killing his master and his master's family.  
Sentenced to be severely scourged and then returned to his master.
46. Landdrost of Graaff Reinet v The Bushman, Ackerman, 6 October 1817, (C.J.810, p.605-620)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused, who was approximately 30 years of age, was found guilty of wounding, housebreaking, repeated theft, theft of cattle and vagabondising.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 7 years.
47. Landdrost of Uitenhage v The Hottentot, Willem, 17 October 1817, (C.J.810, p.621-638)  
The case was heard by the Circuit Court at Uitenhage.  
The accused, who was one of the Caffres of Justice, was found guilty of repeated theft.  
\* The accused had a previous conviction for theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.
48. Landdrost of Uitenhage v the Slave, Isaac of the Cape, 17 October 1817, (C.J.810, p.639-652)  
The case was heard by the Circuit Court at Uitenhage.  
The accused, who was approximately 16 years of age, was found guilty of housebreaking and theft.



Sentenced to be severely scourged. Thereafter to be confined in irons for 2 years and to labour with his master.

49. Secretary of The Graaff Reinet District v Jacob Theron, 3 November 1817, (G.H.47/2/20, p.360-679; G.H.47/1/1, p.88 et seq.)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused was found guilty of the theft of an ox. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined on Robben island for 2 years.  
\* Court of Criminal Appeals : On 3 January 1818 the accused applied for leave to appeal against the sentence and conviction directly to the Court of Criminal Appeals. The Court admitted the appeal under special circumstances. On 30 May 1818 the Court upheld the conviction, but reduced the sentence to imprisonment in Cape Town for 1 year. However, in view of the lengthy period of confinement already undergone by the appellant, and in view of the great expense to which he had been put, the Court ordered his immediate discharge.
50. Landdrost of Swellendam v The Hottentot, Jacobus Vondeling, 3 November 1817, (C.J.810, p.9-12 & p.653-662)  
The case was heard by the Circuit Court at Swellendam.  
The accused, who was approximately 22 years of age, was found guilty of housebreaking and theft.  
\* The accused had a previous conviction for theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 7 years.
51. Fiscal v Archibald Dods, 11 December 1817, (C.J.810, p.15-26)  
The accused, who was 24 years of age and was born in Scotland, was found guilty of forgery.  
Sentenced to be confined in irons and to labour on the public works for 3 months.
52. Fiscal v The Slave, Isaac of the Cape, 30 December 1817, (C.J.812, p1-14)  
The accused, who was approximately 20 years of age, was found guilty of fraud and theft.  
Sentenced to be severely scourged and then returned to his master.
53. Landdrost of Stellenbosch v The Slave, Abraham of the Cape, 30 December 1817, (C.J.812, p.48-68)  
The accused, who was approximately 25 years of age, was found guilty of wounding his master and the slave who was executing his master's orders.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : With the capital punishment remitted. The accused to be taken to the place of execution with every expectation that the sentence will be carried out. However, he shall then be informed that his life has been spared. Thereafter to be confined in irons and to labour on the public works for 10 years.

54. Fiscal v The Slaves : 1) Onverwacht of the Cape (Alias Abdul Manaf); 2) Abraham of the Cape; 3) The Free Black, Magodas (Alias Jannie); 4) The Slave, Hendrik of the Cape; 5) Pierre Moisie & 6) Joseph Lafleur, 30 December 1817, (C.J.812, p.69-151)

The first accused, who was approximately 30 years of age, the second accused, who was approximately 22, the third accused, who was approximately 25, and the fourth accused, who was approximately 24, were found guilty of a most daring housebreaking and enormous theft. The fifth accused, who was 70 years of age and was born on the Isle of France, and the sixth accused, who was 30 years of age and was born in Nantes, were found guilty of concealing the stolen goods.

\* The first three accused had previous convictions for similar offences.

The first accused was sentenced to be hanged by the neck until dead. The second, third, and fourth accused were sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years. The fifth and sixth accused were sentenced to be transported to New South Wales for 14 years.

55. Landdrost of the Cape District v The Hottentot, Piet Lambert, 30 December 1817, (C.J.812, p.152-164)

The accused, who was approximately 20 years of age, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

#### 1818

1. Fiscal v Francis Shortt, 20 February 1818, (G.H.47/2/21, p.1-291)

The accused was found guilty of having composed, written, and published defamatory libels. He had not only atrociously offended the Fiscal, but also the government and the high authority of the Governor. The accused was also found guilty of behaving in an improper manner towards the Commissioners of the Court. (Contravention of the Proclamation dated 3 September 1792)

Sentenced to be banished for life from the colony. The accused was also sentenced to pay a fine of 50 Rixdollars for contravening the proclamation.

\* Court of Criminal Appeals : *The accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 30 May 1818 the Court dismissed the appeal.*

2. Landdrost of The Cape District v The Hottentot, Klaas Stuurman, 5 March 1818, (C.J.811, p.137-144)

The accused, who was approximately 20 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With the confinement reduced to 1 year.*

3. Landdrost of Stellenbosch v The Hottentot, Saul, 5 March 1818, (C.J.811, p.145-160)

54. Fiscal v The Slaves : 1) Onverwacht of the Cape (Alias Abdul Manaf); 2) Abraham of the Cape; 3) The Free Black. Magodas (Alias Jannie); 4) The Slave, Hendrik of the Cape; 5) Pierre Moisie & 6) Joseph Lafleur, 30 December 1817, (C.J.812, p.69-151)

The first accused, who was approximately 30 years of age, the second accused, who was approximately 22, the third accused, who was approximately 25, and the fourth accused, who was approximately 24, were found guilty of a most daring housebreaking and enormous theft. The fifth accused, who was 70 years of age and was born on the Isle of France, and the sixth accused, who was 30 years of age and was born in Nantes, were found guilty of concealing the stolen goods.

\* The first three accused had previous convictions for similar offences.

The first accused was sentenced to be hanged by the neck until dead. The second, third, and fourth accused were sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years. The fifth and sixth accused were sentenced to be transported to New South Wales for 14 years.

55. Landdrost of the Cape District v The Hottentot, Piet Lambert, 30 December 1817, (C.J.812, p.152-164)

The accused, who was approximately 20 years of age, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

#### 1818

1. Fiscal v Francis Shortt, 20 February 1818, (G.H.47/2/21, p.1-291)

The accused was found guilty of having composed, written, and published defamatory libels. He had not only atrociously offended the Fiscal, but also the government and the high authority of the Governor. The accused was also found guilty of behaving in an improper manner towards the Commissioners of the Court. (Contravention of the Proclamation dated 3 September 1792)

Sentenced to be banished for life from the colony. The accused was also sentenced to pay a fine of 50 Rixdollars for contravening the proclamation.

\* Court of Criminal Appeals : *The accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 30 May 1818 the Court dismissed the appeal.*

2. Landdrost of The Cape District v The Hottentot, Klaas Stuurman, 5 March 1818, (C.J.811, p.137-144)

The accused, who was approximately 20 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With the confinement reduced to 1 year.*

3. Landdrost of Stellenbosch v The Hottentot, Saul, 5 March 1818, (C.J.811, p.145-160)

The accused, who was approximately 25 years of age, was found guilty of horse theft. (Stock Theft)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With remission of the confinement.*

4. Landdrost of Stellenbosch v The Hottentot, Jan Kieviet & The Female Hottentot, Spasie, 5 March 1818, (C.J.811, p.161-174)

The first accused, who was approximately 30 years of age, was found guilty of the theft of sheep. (Stock Theft) The second accused, who was approximately 50 years of age, was found guilty of being an accomplice. Both accused were also found guilty of vagabondising.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years. The second accused was sentenced to be severely flogged in prison by the Caffres of Justice and then discharged.

\* Fiat Execution : *With the confinement imposed on the first accused to be reduced to 2 years.*

5. Fiscal v The Slave, Nonie of the Cape, 5 March 1818, (C.J.811, p.175-189)

The accused, who was approximately 20 years of age, was found guilty of concealing a proposed theft, which was subsequently carried out.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With remission of the confinement.*

6. Landdrost of Stellenbosch v The Slave, Jacob of the Cape, 5 March 1818, (C.J.811, p.190-203)

The accused, who was approximately 27 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his master.

7. Fiscal v John Lawrence, 31 March 1818, (C.J.811, p.241-254)

The accused, who was 25 years of age and was born in Pondicherry, was found guilty of vagabondising and theft.

Sentenced to be severely flogged in prison by the Constables of Justice. Thereafter to be banished for life from the colony.

8. Fiscal v The Slave, January of the Cape, 31 March 1818, (C.J.811, p.255-268)

The accused, who was approximately 30 years of age, was found guilty of theft.

\* The accused had a previous conviction for theft dated 25 July 1816.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the confinement and branding. The accused to be returned to his master after having been scourged.*

9. Fiscal v William Tiel, 2 April 1818, (C.J.811, p.98-136)

The accused, who was 21 years of age and was born in Amsterdam, was found guilty of homicide.

Sentenced to be delivered to the executioner. To be made to kneel down before a heap of sand with his eyes blindfolded. His head to be severed from his body with a sword. The corpse to be placed in a coffin and interred in the usual burying place.

\* Court of Criminal Appeals : The accused, who was a second Lieutenant on board a Dutch Naval ship, took an exception to the jurisdiction of the Court of Justice on the grounds that the crime, if any, was of a military nature. The Court of Justice dismissed the exception. On 15 December 1817 the accused lodged an appeal against the ruling with the Court of Criminal Appeals. On 6 January 1818 the Court dismissed the appeal. (G.H.47/2/14, p.1-96; G.H.47/1/1, p.93 et seq.)

\* Fiat Execution : With the punishment commuted to confinement in prison for 1 year.

10. Fiscal v 1) William Hitchcock; 2) Michiel Cogan; 3) John Cockeroff; 4) John Holland; 5) John Morrow; 6) Edward Rawlings; 7) The Hotentot, Kiewiet; 8) The Hottentot, Abraham Leendert; 9) William Holmes; 10) The Hottentot, Afrikaander Dirk; 11) The Slave, Carolus of the Cape; & 12) The Bastard Hottentot, William Marjan, 6 April 1818, (C.J.811, p.1-68)

The first, second, third, fourth, sixth, and ninth accused were born in England and were 24, 21, 18, 20, 26, and 21 years of age respectively. The fifth accused was 15 years of age and was born in Ireland. The seventh accused was approximately 30 years of age, the eighth accused approximately 35, the tenth accused approximately 45, the eleventh accused approximately 29, and the twelfth accused 19 years of age. The first and second accused were found guilty of forming a plan for an armed desertion, violence, and resistance. The third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh accused were found guilty of acquiescing in the plan. The first eleven accused were also found guilty of deserting with arms and ammunition and of committing force, both by taking the boat of the Under-Sheriff and by suprising and overpowering the ship Elizabeth, which lay at anchor off Robben Island. They were also found guilty of violence on board the ship, in which respect the second, third, and sixth accused particularly distinguished themselves. The first eleven accused were also found guilty of making an armed and forcible resistance against the inhabitants of the colony and against the Commando which had been sent after them. A member of the Commando was severely wounded during the fight. The accused were also found guilty of committing violence on the person of Jan Harmse Niemand. Finally, the accused were found guilty of forcibly endeavouring to take horses and cattle from the farmers, shooting an ox and a heifer, and seizing a pack ox. The twelfth accused was found guilty of making use of force, whereby the other accused found the means to escape from the prison on Robben Island. The second accused was also found guilty of forgery and deceit.

\* The second, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth accused had previous convictions.

The first and second accused were sentenced to be hanged by the neck until dead. The seventh and eighth accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life. The ninth, tenth, and eleventh accused were sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life. The third, fourth, fifth, and sixth accused were sentenced to be transported for life to New South Wales. The twelfth accused was sentenced to be severely flogged in prison by the Constables of Justice. Thereafter to be confined in irons until an opportunity arose for his transportation.

\* Court of Criminal Appeals : On 1 June 1818 the first and second accused lodged an appeal against their sentences with the Court of Criminal Appeals. On 3 November 1818 the Court confirmed the second accused's death sentence. However, the first accused's sentence was altered to transportation for life. (G.H.47/2/19, p.1-1659; G.H.47/1/1, p.101 et seq.)

\* Fiat Execution : With remission of the second accused's sentence. To be transported for life to New South Wales.

11. Fiscal v Jan De Lil, 6 April 1818, (C.J.811, p.227-240)  
The accused, who was 45 years of age and was born in Brabant, was found guilty receiving goods in pawn and of concealing and alienating the goods.  
\* The accused had a previous conviction for purchasing military clothing.  
Sentenced to be banished for life from the colony.
12. Landdrost of Graaff Reinet v The Hottentot, Africander, 9 April 1818, (C.J.811, p.83-96)  
The accused, who was between 40 and 50 years of age, was found guilty of culpable manslaughter. (Culpable Homicide)  
Sentenced to be confined in irons and to labour on the public works for 1 year.  
\* Fiat Execution : With remission of the punishment.
13. Landdrost of Graaff Reinet v The Hottentot, Hermanus, 9 April 1818, (C.J.813, p.684-694)  
The accused, who was approximately 35 years of age, was found guilty of exceeding the measure of justifiable defence.  
Sentenced to be confined in irons and to labour on the public works for 1 year.  
\* Fiat Execution : With remission of the punishment.
14. Landdrost of Stellenbosch v The Hottentot, Smit, 16 April 1818, (C.J.811, p.97-106)

The accused, who was approximately 30 years of age, was found guilty of horse theft. (Stock Theft)  
Sentenced to be severely scourged and then set at liberty.

15. Landdrost of Graaff Reinet v 1) The Slave, Pedro from Mocambique; 2) The Hottentot, Kieviet; 3) The Female Bushman, Lys; 4) The Hottentot, Emme Rents & 5) The Female Hottentot, Duym, 29 April 1818, (C.J.811, p.269-298)

The first accused, who was approximately 28 years of age, the second accused, who was approximately 20, the third accused, who was approximately 16, the fourth accused, who was approximately 18, and the fifth accused, who was approximately 27, were found guilty of vagabondising in a gang and of repeated housebreaking and theft.

The accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works at Robben Island. The first accused for 5 years and the second accused for 3 years. The third, fourth, and fifth accused to be confined in irons and to labour on the public works at the Drostdy. The third and fourth accused for 3 years, and the fifth accused for 1 year.

\* Fiat Execution : *With the accused to be confined in irons and to labour for their masters, instead of at Robben Island and the Drostdy.*

16. Landdrost of Graaff Reinet v The Slave, Lubin from Mauritius, 4 May 1818, (C.J.811, p.204-226)

The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With remission of the confinement.*

17. Fiscal v John Wilson & John Steward, 11 June 1818, (C.J.811, p.69-82)

The first accused, who was 23 years of age and was born in Scotland, and the second accused, who was 19 and was born in Scotland, were found guilty of theft, which was aggravated by the fact that they committed the crime while on guard duty.

The accused were sentenced to be transported to New South Wales for 5 years.

\* Fiat Execution : *With remission of the punishment and the accused to be returned to their regiment.*

18. Landdrost of Stellenbosch v The Slave, Africa from Mocambique, 26 June 1818, (C.J.811, p.356-373)

The accused, who was approximately 25 years of age, was found guilty of theft and violence.

Sentenced to be severely scourged and then returned to his master.

19. Fiscal v William Parkins, 26 June 1818, (C.J.811, p.580-593)

The accused, who was 21 years of age and was born in England, was found guilty of theft, which was aggravated by the fact that he committed the crime while on guard duty.  
Sentenced to be transported to New South Wales for 3 years.

20. Fiscal v The Prize Negro, Antony, 15 July 1818, (C.J.811, p.342-355)

The accused, who was approximately 19 years of age, was found guilty of fraud and theft.  
Sentenced to be severely scourged and then returned to his master.

21. Fiscal v John Singleton, 15 July 1818, (C.J.811, p.594-613)

The accused, who was 23 years of age and was born in England, was found guilty of theft.  
Sentenced to be transported to New South Wales for 5 years.

22. Landdrost of Stellenbosch v The Slave, Carolus of the Cape, 23 July 1818, (C.J.811, p.504-513)

The accused, who was approximately 27 years of age, was found guilty of repeated desertion, vagabondising, theft from gardens, and theft of cattle. (Stock Theft)  
Sentenced to be severely scourged.

23. Fiscal v Philip Landon, 27 July 1818, (C.J.812, p.216-244)

The accused, who was 44 years of age and was born in England, was found guilty of gross malversation in his capacity as Notary Public, with the intention of instigating both slaves and apprentices against their masters. The accused was also found guilty of assuming the magisterial authority, both by taking information from the said slaves and apprentices respecting punishable acts of their masters and by granting passes or certificates of freedom to some of the apprentices.  
Sentenced to be deprived of his office as Notary and declared to be incapable of exercising any public office for life. The accused was also sentenced to be banished for life from the colony.

24. Government Resident of Simonstown v Walter Thompson, 6 August 1818, (C.J.811, p.299-313)

The accused, who was 26 years of age and was born in Scotland, was found guilty of concealing stolen goods.  
Sentenced to be banished for life from the colony.  
\* Fiat Execution : *With remission of the sentence.*

25. Fiscal v The Slaves : 1) Spadille of the Cape; 2) Fortuin of the Cape; 3) Adam of the Cape; 4) David from Batavia; 5) Ferdinand from Bourbon; 6) Salie of the Cape & 7) The Female Free Black, Louisa of the Cape, 6 August 1818, (C.J.811, p.422-441)

The first accused, who was approximately 18 years of age, was found guilty of desertion and theft. The second accused, who was approximately 20 years of age, was found guilty of the theft of sheep. (Stock Theft) The third accused, who was approximately thirty years of age, was found guilty of harbouring runaway slaves in his master's house.



The fourth accused, who was approximately 25 years of age, was found guilty of receiving and concealing stolen goods. The fifth accused, who was approximately 25 years of age, and the sixth accused, who was approximately 18, were found guilty of desertion and, together with the seventh accused, who was approximately 15 years of age, of joining a gang of runaways.

The first, second, and third accused were sentenced to be severely scourged. The fourth, fifth, sixth, and seventh accused were sentenced to be severely flogged in the prison by the Caffres of Justice.

\* Fiat Execution : *With remission of the punishment awarded to the seventh accused.*

26. Fiscal v The Hottentot, Adam, 24 August 1818, (C.J.811, p.374-387)  
The accused, who was approximately 21 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and then discharged.

27. Government Resident of Simonstown v Jan Bouche, 24 August 1818, (C.J.812, p.704-717)  
The accused, one of the Caffers of Justice, who was approximately 30 years of age, was found guilty of retaining and concealing goods and money, which he had found and should have known to be lost or stolen.  
\* The accused had a previous conviction.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the term prescribed by his former sentence.

28. Landdrost of Stellenbosch v Philip Wouter de Vos, 27 August 1818, (G.H.47/2/21, p.160-445; G.H.47/1/1, p.104 et seq.)  
The accused was found guilty of 'unwillingness to do the duty of Sergeant of the Fire Engines'.  
Sentenced to pay a fine of 500 Rixdollars or to be confined in prison for 6 months.  
\* Court of Criminal Appeals : *On 4 November 1818 the accused applied for leave to appeal against the conviction and sentence. The Court of Criminal Appeals granted leave. On 28 December 1818 the appeal was dismissed.*

29. Landdrost of The Cape District v The Hottentots : 1) Booy Kieviet; 2) Kliene Booy; 3) Klaas Beetje & 4) The Female Hottenot, Sanna, 29 August 1818, (C.J.811, p.366-379)  
The first accused, who was approximately 24 years of age, was found guilty of vagabondising. The first accused, and the second accused, who was approximately 36, were found guilty of the theft of goats. (Stock Theft) The first accused, together with the third accused, who was approximately 40 years of age, and the fourth accused, who was approximately 36, were found guilty of desertion. The third and fourth accused were also found guilty of participating in the stolen meat.  
The first and second accused were sentenced to be severely scourged. The third and fourth accused were sentenced to be severely flogged in prison by the Caffres of Justice.

30. Fiscal v Thomas Madden, 29 August 1818, (C.J.811, p.442-487)  
The accused, who was 44 years of age and was born in Ireland, was found guilty of having aided and abetted in the circulation of counterfeit money.  
Sentenced to be transported to New South Wales for life.
31. Landdrost of The Cape District v The Slave, May from Mocambique, 29 August 1818, (C.J.811, p.528-543)  
The accused, who was approximately 40 years of age, was found guilty of making an attempt on the life of his concubine and of making an armed attack on his master.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : *With the punishment commuted. The accused to be severely scourged and delivered to his master, with whom he is to serve in irons for 2 years.*
32. Fiscal v Jan Pietersen, 2 September 1818, (C.J.811, p.544-565)  
The accused, who was 42 years of age and was born in Boston, was found guilty of theft.  
Sentenced to be transported to New South Wales for 3 years.  
\* Fiat Execution : *With remission of the punishment to confinement and to labour on the public works at Robben island for 3 years.*
33. Landdrost of Tulbagh v The Hottentot, Goliath, 3 September 1818, (C.J.811, p.406-421)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 35 years of age, was found guilty of vagabondising and repeated theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
34. Landdrost of Tulbagh v The Slave, Paul of the Cape, 3 September 1818, (C.J.811, p.488-503)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 30 years of age, was found guilty of repeated housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
35. Landdrost of Tulbagh v The Hottentot, Jantje Cupido, 3 September 1818, (C.J.811, p.514-527)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 26 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
36. Landdrost of The Cape District v The Hottentot, Hans, 8 September 1818, (C.J.811, p.388-349) (Pagination moves backwards)  
The accused, who was approximately 36 years of age, was found guilty of receiving stolen goods.  
Sentenced to be severely scourged and then returned to his master.

37. Landdrost of Graaff Reinet v The Hottentots, Caas & Cupido, 24 September 1818, (C.J.811, p.566-579)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 40 years of age, and the second accused, who was approximately 25, were found guilty of opening a lock with a false instrument and theft. (Housebreaking & theft)

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years.

38. Landdrost of Graaff Reinet v The Hottentot, Geduld, 26 September 1818, (C.J.811, p.328-341)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 30 years of age, was found guilty of theft and setting fire to a house. (Arson)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

39. Landdrost of Graaff Reinet v The Bushmen : 1) Africa; 2) Africaner & 3) Jacob, 28 September 1818, (C.J.811, p.350-365)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 19 years of age, the second accused, who was approximately 28, and the third accused, who was approximately 36, were found guilty of housebreaking and theft.

The accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works for 3 years.

40. Landdrost of Graaff Reinet v The Bushmen : 1) Ernst; 2) Philip & 3) Anna, 28 September 1818, (C.J.811, p.380-405)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 21 years of age, and the second accused, who was approximately 35, were found guilty of making a violent attack on Carel Johannes and Gerhardus Petrus Pretorius. They were also found guilty of vagabondising and repeated theft of cattle. (Stock Theft) The third accused, who was approximately 38 years of age, was found guilty of vagabondising.

The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 5 years. The third accused was sentenced to be severely flogged in prison by the Caffres of Justice.

41. Landdrost of Uitenhage v The Hottentot, Fredrik Draay, 8 October 1818, (C.J.812, p.761-779)

The case was heard by the Circuit Court at Uitenhage.

The accused, who was approximately 30 years of age, was found guilty of the theft of a postbag, a horse, and a saddle.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

42. Landdrost of Uitenhage v The Slave, Arend of the Cape, 10 October 1818, (C.J.812, p.748-760)  
The case was heard by the Circuit Court at Uitenhage.  
The accused, who was approximately 25 years of age, was found guilty of wounding the Hottentot Andries.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.
43. Landdrost of Uitenhage v The Hottentots : 1) Klaas Gezwind; 2) Booy Vigilant (Alias Barend); 3) Kasper & 4) Arnoldus Kees, 10 October 1818, (C.J.812, p.780-825)  
The case was heard by the Circuit Court at Uitenhage.  
The first accused, who was approximately 26 years of age, was found guilty of vagabondising with arms, theft of cattle, theft, making a violent attack on the wife of Willem Botha, and of being an accomplice in the formation of a plan to lay waste the village.  
The second accused, who was approximately 25 years of age, was found guilty of having known about and of having participated in the plan. The third accused, who was approximately 36 years of age, and the fourth accused, who was approximately 40, were found guilty of knowing that the conspiracy was going on in the neighbourhood of the village.  
\* The first and second accused had previous convictions.  
The first accused was sentenced to be hanged by the neck until dead. The second and third accused were sentenced to be severely scourged. The second accused to be branded. Thereafter the second and third accused to be confined in irons and to labour on the public works. The second accused for 10 years, and the third accused for 5 years. The fourth accused was sentenced to witness the execution and then to be returned to his master.
44. Landdrost of George v The Hottentot, Klaas Vigilant, 29 October 1818, (C.J.812, p.826-853)  
The case was heard by the Circuit Court at George.  
The accused, one of the Caffres of justice, who was approximately 26 years of age, was found guilty of housebreaking and theft.  
\* The accused had a previous conviction for the theft of a horse.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.
45. Landdrost of Swellendam v The Slave, Adrian of the Cape, 6 November 1818, (C.J.811, p.614-635)  
The case was heard by the Circuit Court at Swellendam.  
The accused, who was approximately 30 years of age, was found guilty of vagabondising, forcing and breaking open locks, theft of cattle, and other thefts.  
Sentenced to be severely scourged. Thereafter to be confined in irons for 3 years and to labour with his master.
46. Landdrost of Swellendam v The Slave, Cupido from Mocambique & The Hottentot, Africander, 7 November 1818, (C.J.811, p.636-652)  
The case was heard by the Circuit Court at Swellendam.  
The first accused, who was approximately 46 years of age, and the second accused, who was approximately 25, were found guilty of the

theft of cattle, and other thefts.

\* The first accused had a previous conviction for stock theft dated 8 January 1810.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works at the Drostdy. The first accused for 3 years, and the second accused for 1 year.

47. Landdrost of Stellenbosch v The Hottentot, Piet Ruijter & The Female Hottentot, Lena, 26 November 1818, (C.J.812, p.350-368)

The first and second accused, who were approximately 35 years of age, were found guilty of desertion and vagabondising. The first accused was also found guilty of housebreaking and repeated theft. The second accused had knowledge of the first accused's intention to steal and participated in the stolen goods. She was accordingly found guilty as an accomplice.

The first and second accused were sentenced to be severely scourged. Thereafter the second accused to be discharged. The first accused to be branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

48. Fiscal v The Bastard Hottentots, Klaas Domingo & David, 26 November 1818, (C.J.812, p.369-380)

The first accused, who was approximately 20 years of age, and the second accused, who was approximately 17, were found guilty of theft.

The accused were sentenced to be severely scourged.

49. Landdrost of Stellenbosch v The Slaves : 1) Lindor from Mocambique; 2) Mars from Mocambique & 3) The Female Slave Rosaline of the Cape, 10 December 1818. (C.J.812, p.245-275)

The first accused, who was approximately 25 years of age, the second accused, who was approximately 35, and the third accused, who was approximately 20, were found guilty of desertion and vagabondising. The first accused was also found guilty of theft and of violently attacking and robbing Johan Fredrik Buttner. The third accused was found guilty of being an accomplice to the robbery.

The first and second accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the third accused, to be severely scourged. The first and second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works for life. The third accused to be returned to her master.

\* Fiat Execution : *With remission of the punishment awarded to the third accused.*

50. Landdrost of Stellenbosch v The Hottentot, Philip & The Slave, Klaas of the Cape, 10 December 1818, (C.J.812, p.276-293)

The first accused, who was approximately 20 years of age, was found guilty of housebreaking and theft. The second accused, who was approximately 7 years of age, was found guilty of being an accomplice.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years. The confinement already undergone by the second accused was considered to be a sufficient and adequate punishment.

51. Government Resident of Simonstown v The Prize Negro, Figaro, 10 December 1818, (C.J.812, p.293-311)

The accused, who was approximately 40 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

52. Landdrost of Tulbagh v The Hottentot, Rondganger, 10 December 1818, (C.J.812, p.312-328)

The accused, who was approximately 40 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 2 years.

53. Government Resident of Simonstown v The Slaves, Siding from Batavia & Lubin from Bengal, 24 December 1818, (C.J.812, p.165-183)

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 40, were found guilty of receiving and concealing stolen goods.

The accused were sentenced to be severely scourged.

54. Landdrost of Stellenbosch v The Hottentot, Bruikland, 24 December 1818, (C.J.812, p.205-215)

The accused, who was approximately 25 years of age, was found guilty of repeated theft, accompanied by violence.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

#### 1819

1. Landdrost of Tulbagh v The Hottentot, Orange, 21 January 1819, (C.J.812, p.329-349)

The accused, who was approximately 40 years of age, was found guilty of murder.

Sentenced to be hanged by the neck until dead.

2. Landdrost of George v The Hottentot, Jantje Booy & The Female Hottentot Leentje Frans, 21 January 1819, (C.J.812, p. 416-458)

The first accused, who was approximately 20 years of age, was found guilty of murder. The second accused, who was approximately 28 years of age, was found guilty of concealing the corpse.

The first accused was sentenced to be hanged by the neck until dead. The second accused was sentenced to witness the execution. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 3 years.

3. Landdrost of Tulbagh v 1) The Female Hottentot, Lys; 2) The Hottentot, Copie & 3) The Hottentot, Jan, 1 February 1819, (C.J.812, p.507-524)

The first accused, who was approximately 35 years of age, was found guilty of housebreaking and theft. The second accused, who was approximately 40 years of age, and the third accused, who was approximately 28, were found guilty of partaking in the stolen goods.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 2 years. The imprisonment already undergone by the second and third accused was considered to be a sufficient and adequate punishment.

4. Fiscal v Joachim Petrus Caesars, 12 February 1819, (C.J.812, p.381-400)

The accused, who was 21 years of age and was born in the colony, was found guilty of housebreaking and theft. Sentenced to be severely scourged. Thereafter to be banished from the colony for 10 years.

\* Fiat Execution : *With remission of the banishment.*

5. Landdrost of Stellenbosch v The Hottentot, Fix, 12 February 1812, (C.J.812, p.401-415)

The accused, who was approximately 25 years of age, was found guilty of desertion, vagabondising, stock theft, and detaining a slave.

\* The accused had a previous conviction for stock theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

6. Landdrost of The Cape District v Richard Dennisso, 12 February 1819, (C.J.812, p.499-506)

The accused, who was 25 years of age and was born in Russia, was found guilty of perjury.

Sentenced to be exposed to the public view with a board round his neck, containing the words 'False Witness'. Thereafter to be confined in prison for 6 weeks.

7. Fiscal v The Prize Negro, Francis from Mocambique, 18 February 1819, (C.J.812, p.474-498)

The accused, who was approximately 20 years of age, was found guilty of clandestinely entering a house with arms and wounding the Prize Negro Hallon.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

8. Landdrost of The Cape District v The Slave, Maringo from Mocambique & The Prize Negro, Alexander from Mocambique, 19 February 1819, (C.J.812, p.459-473)

The first accused, who was approximately 26 years of age, and the second accused, who was approximately 20, were found guilty of desertion. The first accused was also found guilty of forcible

resistance.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years. The second accused was sentenced to be severely flogged in prison by the Caffres of Justice.

\* Fiat Execution : *With remission of the confinement.*

9. Fiscal v The Bastard Hottentot, Laptoe, 25 February 1819, (C.J.812, p.184-204)

The accused, who was approximately 18 years of age, was found guilty of concealing stolen goods.

\* The accused had a previous conviction for theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

10. Landdrost of Graaff Reinet v The Bushman, Booy (Alias Andries), 18 March 1819, (C.J.812, p.525-543)

The accused, who was approximately 20 years of age, was found guilty of treacherously attacking and wounding with a poisoned arrow and making a murderous and wilful attempt on the life of Grevestein.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

11. Landdrost of Swellendam v The Slave, Lendar of the Cape & The Female Hottentot, Hester, 18 March 1819, (C.J.812, p.686-696 & p.938-948)

The first accused, who was approximately 28 years of age, and the second accused, who was approximately 35, were found guilty of desertion and vagabondising. The first accused was also found guilty of repeated theft, armed aggression, and murderously wounding the slave Solon. The second accused was found guilty of participating in the stolen goods and of continuing as a runaway with the first accused, after she had every reason to believe that the thefts he committed were accompanied with acts of violence.

The first accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life. The second accused was sentenced to witness the punishment. Thereafter to be severely flogged in prison by the Caffres of Justice.

12. Landdrost of Stellenbosch v Abraham Smit, 30 March 1819, (C.J.812, p.544-566)

The accused, who was 45 years of age and was born in the colony, was found guilty of wilful and premeditated murder.

Sentenced to be hanged by the neck until dead.

13. Landdrost of Graaff Reinet v The Bushman, Voorman, 15 April 1819, (C.J.812, p.567-589)

The accused, who was approximately 25 years of age, was found guilty of being an accomplice to the wilful and premeditated



murder of the slave Pedro.

Sentenced to be hanged by the neck until dead.

14. Fiscal v Albert Wynand Louw, 22 July 1819, (C.J.812, p.623-653)  
The accused, who was 49 years of age and was born in the colony, was found guilty of wounding Johannes Martinus Holtman.  
Sentenced to be transported to New South Wales for life.
15. Fiscal v Jacob Smit, 22 July 1819, (C.J.813, p.666-683)  
The accused, who was a soldier in the service of the King of the Netherlands, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : On 3 August 1819 the accused lodged an appeal against conviction and sentence with the Court of Criminal Appeals. On 6 December 1819 the appeal was dismissed. (G.H.47/2/1, p.422-440; G.H.49/18; & G.H.47/1/1, p.107 et seq.)  
\* Fiat Execution : Pardon granted by the Prince Regent. The accused to be confined in prison for 1 year.
16. Landdrost of Stellenbosch v The Slave, Jack from Bengal, 9 August 1819, (C.J.812, p.603-622)  
The accused, who was approximately 40 years of age, was found guilty of desertion, housebreaking, and theft.  
\* The accused had a previous conviction for housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
17. Fiscal v The Female Slave, Hester of the Cape, 16 August 1819, (C.J.812, p.590-602)  
The accused, who was approximately 26 years of age, was found guilty of killing her three children. She was also found guilty of attempting to destroy herself. (Murder & Attempted Suicide)  
Sentenced to be tied to a stake and strangled to death.
18. Landdrost of Stellenbosch v The Slave, David from Mocambique, 19 August 1819, (C.J.812, p.654-681)  
The accused, who was approximately 30 years of age, was found guilty of making an armed and most violent attack on his master.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : With remission of the punishment. The accused to be returned to his master and informed that he owed his life to the latter's kind intervention.
19. Fiscal v The Slave, April of the Cape, 19 August 1819, (C.J.812, p.682-685 & p.697-703)  
The accused, who was approximately 25 years of age, was found guilty of desertion and horse theft.  
Sentenced to be severely scourged and then returned to his master.
20. Fiscal v The Slave, Louis from Makou, 19 August 1819, (C.J.812, p.733-747)  
The accused, who was approximately 30 years of age, was found

guilty of desertion and repeated theft.

Sentenced to be severely scourged and then returned to his master.

21. Landdrost of The Cape District v The Slave, Fortuin from Mocambique, 2 September 1819, (C.J.811, p.314-327)

The accused, who was approximately 50 years of age, was found guilty of drawing a knife against his master with the intention of attacking him. He was also found guilty of threatening a female slave.

\* The accused had a previous conviction for violence.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

22. Landdrost of Stellenbosch v The Slaves, Joemat of the Cape & Salie from Mocambique, 16 September 1819, (C.J.812, p.718-732)

The accused, who were both approximately 25 years of age, were found guilty of housebreaking and theft.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With the punishment remitted. The accused to be severely scourged. Thereafter to be confined in irons for 3 years and to labour with their master.*

23. Landdrost of Swellendam v James Thomas & The Hottentot, Abel, 11 October 1819, (C.J.812, p.854-874)

The case was heard by the Circuit Court at Swellendam.

The first accused, who was 36 years of age and was born in Wales, was found guilty of housebreaking and theft. The second accused, who was approximately 40 years of age, was found guilty of receiving the stolen property.

The first accused was sentenced to be confined in irons and to labour on the public works at the Drostdy for 1 year. The second accused was sentenced to be severely flogged in prison by the Caffres of Justice.

\* Fiat Execution : *With remission of the punishment.*

24. Landdrost of George v The Hottentot, Klaas Gezwind, 18 October 1819, (C.J.812, p.875-882 & p.928-937)

The case was heard by the Circuit Court at George.

The accused, who was approximately 23 years of age, was found guilty of resisting his master's authority and wounding him.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the confinement.*

25. Landdrost of Uitenhage v The Hottentot, Carel Titus, 29 October 1819, (C.J.812, p.892-927)

The case was heard by the Circuit Court at Uitenhage.

The accused, who was approximately 30 years of age, was found guilty of vagabondising with arms, horse theft, theft, forming a conspiracy to lay waste the village, and murder.

\* The accused had a previous conviction.

Sentenced to be hanged by the neck until dead.

26. Government Resident of Simonstown v The Bastard Hottentot, Klaas Domingo, 25 November 1819, (C.J.813, p.557-572)  
The accused, who was approximately 25 years of age, was found guilty of wounding Peter Nygrin.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
27. Landdrost of Stellenbosch v 1) The Slave, Absalon of the Cape; 2) The Hottentot, October & 3) The Female Hottentot, Mina, 25 November 1819, (C.J.813, p.593-630)  
The first accused, who was approximately 25 years of age, the second accused, who was approximately 18, and the third accused, who was approximately 36, were found guilty of desertion. The first and third accused were found guilty of vagabondising in a gang. The first and second accused were found guilty of housebreaking and repeated theft, and the third accused was found guilty of participating in the stolen goods.  
The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 5 years. The third accused was sentenced to be severely flogged in prison by the Caffres of Justice.
28. Landdrost of Stellenbosch v The Female Slave, Tamar of the Cape, 15 December 1819, (C.J.813, p.435-464)  
The accused, who was approximately 30 years of age, was found guilty of the murder of the female Hottentot Hendrya.  
Sentenced to be tied to a stake and strangled to death.
29. Fiscal v John Welsh, 15 December 1819, (C.J.813, p.489-503)  
The accused, who was 23 years of age and was born in England, was found guilty of breaking and theft on board a ship.  
Sentenced to be confined in irons and to labour on the public works for 12 months.
30. Fiscal v Conraad De Haan, 15 December 1819, (C.J.813, p.520-541)  
The accused, who was 26 years of age and was born in Holland, was found guilty of housebreaking and theft.  
\* The accused had a previous conviction for theft.  
Sentenced to be transported to New South Wales for 5 years.
31. Fiscal v The Slave, Apollos from Macassar, 15 December 1819, (C.J.813, p.542-556)  
The accused, who was approximately 50 years of age, was found guilty of repeated armed aggression against the Constables of Justice in the discharge of their duty.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
32. Landdrost of Uitenhage v The Hottentot, Booy Windvogel, 15 December 1819, (C.J.813, p.573-592)  
The accused, who was between 16 or 17 years of age, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *With remission of the punishment and commuting it to service in irons with his master for 12 months.*

33. Fiscal v Jose Tavares, 27 December 1819, (C.J.813, p.465-488)  
The accused, who was 19 years of age and was born in Portugal, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.

1820

1. Fiscal v Stephen Geary, 20 January 1820, (C.J.813, p.46-58)  
The accused, who was 29 years of age and was born in Ireland, was found guilty of theft.  
\* The accused had a previous conviction for petty theft.  
Sentenced to labour in irons for 1 year.
2. Fiscal v The Bastard Hottentot, Laptoe, 20 January 1820, (C.J.813, p.68-82)  
The accused, who was approximately 25 years of age, was found guilty of clandestinely entering a house with the intention of committing theft.  
\* The accused had three previous convictions.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.  
\* Fiat Execution : *With remission of the scourging and branding.*
3. Landdrost of George v The Slave, Jacob from Saint Helena, 31 January 1820, (C.J.813, p.104-124)  
The accused, who was approximately 32 years of age, was found guilty of desertion, housebreaking, and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With remission of the scourging and branding.*
4. Landdrost of Swellendam v The Slaves : 1) Salomon of the Cape; 2) David of the Cape; The Female Slaves : 3) Silvia of the Cape & 4) Spacie of the Cape, 31 January 1820, (C.J.813, p.155-177)  
The first accused, who was approximately 20 years of age, the second accused, who was approximately 45, the third accused, who was approximately 45, and the fourth accused, who was approximately 16, were found guilty of desertion and vagabondising. The first accused was also found guilty of the theft of cattle, and the other accused of partaking in the stolen meat. (Stock Theft)  
The first and second accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 1 year. The third and fourth accused were sentenced to be severely flogged in prison by the Caffers of Justice.  
\* Fiat Execution : *With remission of the scourging and the flogging.*
5. Landdrost of The Cape District v The Prize Negroes : 1) Martin from Mocambique; 2) Malo Fredrik from Mocambique & 3) Domingo from

Mocambique, 3 February 1820, (C.J.813, p.59-67)

The first accused, who was approximately 23 years of age, the second accused, who was approximately 28, and the third accused, who was approximately 20, were found guilty of public violence. The first accused was also found guilty of rape, and the second and third accused of assisting therein.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second and third accused for 6 years.

\* Fiat Execution : *With remission of the scourging and branding.*

6. Fiscal v Johan Smit, 7 February 1820, (C.J.813, p.9-27)

The case was heard by the Court of Commissioners.

The accused, who was 23 years of age and was born in Mannheim, was found guilty of fraud and theft.

Sentenced to be banished from the colony for 10 years.

7. Landdrost of Swellendam v The Slave, Jan from Mocambique, 14 February 1820, (C.J.813, p.647-665)

The accused, who was approximately 25 years of age, was found guilty of housebreaking and repeated theft.

\* The accused had a previous conviction for repeated stock theft. Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the confinement from 5 to 3 years.*

8. Fiscal v The Slaves, Lendor from Mocambique & Manuel from Mocambique, 17 February 1820, (C.J.813, p.83-103)

The accused were found guilty of desertion, vagabondising in a gang, housebreaking, and repeated theft. The first accused was also found guilty of the theft of sheep. (Stock Theft)

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour with their masters. The first accused for 7 years, and the second accused for 5 years.

\* Fiat Execution : *With remission of the scourging and branding.*

9. Secretary of The Cape District v The Bastard Hottentot, Hendrik Jacobus Linder, 18 February 1820, (C.J.813, p.125-131)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 39 years of age, was found guilty of wounding.

Sentenced to be confined in irons and to labour on the public works for 1 year.

10. Secretary of The Cape District v The Female Bastard Hottentot, Elsje Mattheus, 1 March 1820, (C.J.813, p.28-37)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 28 years of age, was found guilty of receiving stolen goods.

Sentenced to be severely scourged.

\* Fiat Execution : *With remission of the punishment.*

11. Landdrost of George v Bernardus Christian Zaayman, 2 March 1820, (G.H.47/2/22, p.1-804; G.H.47/1/1, p.109 et seq.)  
The accused was found guilty of the murder of Christoffel Lombard.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : *On 6 March 1820 the accused lodged an appeal against conviction and sentence with the Court of Criminal Appeals. On 29 July 1820 the Court upheld the appeal and reversed the sentence.*
12. Fiscal v The Slave, Ontong from Madras, 3 March 1820, (C.J.813, p.631-646)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 40 years of age, was found guilty of fraud and theft.  
Sentenced to be severely scourged and then returned to his master.  
\* Fiat Execution : *With remission of the punishment.*
13. Landdrost of Stellenbosch v The Hottentot, Jantje, 4 April 1820, (C.J.814, p.1-16)  
The accused, who was approximately 35 years of age, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.
14. Landdrost of Stellenbosch v the Hottentot, Jantje Piet, 4 April 1820, (C.J.815, p.302-313)  
The accused, who was approximately 35 years of age, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : *Royal Pardon granted. The accused to be transported to New South Wales for life.*
15. Secretary of The Stellenbosch District v The Slaves, April of the Cape & Louis from Mocambique, 13 April 1820, (C.J.813, p.132-154)  
The first accused, who was approximately 25 years of age, and the second accused, who was approximately 40, were found guilty of desertion, vagabondising, and repeated theft.  
\* The first accused had a previous conviction dated 26 August 1819.  
The accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works for 1 year.  
\* Fiat Execution : *With remission of the scourging.*
16. Fiscal v The Slave, David of the Cape, 2 May 1820, (C.J.813, p.368-383)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 25 years of age, was found guilty of vagabondising and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour with his master for 6 months.
17. Fiscal v The Slaves, Jacob from Ceylon & Adam from Bengal, 2 May 1820, (C.J.813, p.417-434)

The case was heard by the Court of Commissioners.

The first accused, who was approximately 50 years of age, was found guilty of vagabondising and theft. The second accused, who was approximately 55 years of age, was found guilty of receiving stolen goods.

The accused were sentenced to be severely scourged. The first accused to be confined in irons and to labour with his master for 6 months. The second accused to be returned to his master.

18. Landdrost of Tulbagh v The Female Slave, Hendrietta from Mauritius, 8 May 1820, (C.J.813, p.191-224)

The accused, who was approximately 25 years of age, was found guilty of a treacherous and premeditated scheme and the nearest attempt to deprive the female slave Saida of her life. (Attempted Murder)

Sentenced to be exposed to the public view under the gallows with a rope round her neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on Robben Island for life.

\* Fiat Execution : *With remission of the confinement to 7 years.*

19. Fiscal v Thomas Payne & William Hicks, 16 May 1820, (C.J.813, p.398-416)

The case was heard by the Court of Commissioners.

The first accused, who was 26 years of age and was born in England, and the second accused, who was 17 and was born in England, were found guilty of theft.

The accused were sentenced to be severely scourged.

\* Fiat Execution : *With remission of the sentence to a flogging in prison.*

20. Landdrost of Stellenbosch v The Slaves : 1) Dollie of the Cape; 2) Appollos of the Cape & 3) Pierre from Mocambique, 25 May 1820, (C.J.813, p.276-294)

The first accused, who was approximately 30 years of age, the second accused, who was approximately 25, and the third accused, who was approximately 30, were found guilty of housebreaking.

The accused were sentenced to be severely scourged and branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 15 years, and the second and third accused for 5 years.

\* Fiat Execution : *With the term of confinement reduced to one half of the period sentenced.*

21. Landdrost of Graaff Reinet v The Hottentot, Saturday, 8 June 1820, (C.J.813, p.178-190)

The accused, who was approximately 16 years of age, was found guilty of sodomy with a cow.

Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *With remission of the punishment to confinement in irons and to labour on the public works for 5 years.*

22. Landdrost of Graaff Reinet v The Hottentots, Booy & Slinger, 8 June 1820, (C.J.813, p.225-244)

The first accused, who was approximately 27 years of age, and the second accused, who was approximately 24, were found guilty of the murder of the female Hottentot Lys and her child Candasa.

The accused were sentenced to be hanged by the neck until dead.

23. Landdrost of Graaff Reinet v 1) The Hottentot, Plaatje; 2) The Bushman, Ruiter; 3) The Bushman, Jantje; 4) The Bushman, Platie Danzer & 5) The Bushman, Oude Piet, 8 June 1820, (C.J.813, p.295-322)

The first accused, who was approximately 25 years of age, the second accused, who was approximately 25, the third accused, who was approximately 28, the fourth accused, who was approximately 34, and the fifth accused, who was approximately 60, were found guilty of desertion, vagabondising in a gang with arms, and theft of cattle. (Stock Theft) The first accused was also found guilty of making a violent attack on and of grossly ill-treating the maid Lea.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the five accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second, third, fourth, and fifth accused for 5 years.

24. Landdrost of George v The Slaves, July from Mallabar & Pedro from Mocambique, 12 June 1820, (C.J.813, p.245-275)

The first accused, who was approximately 25 years of age, and the second accused, who was between 25 and 30, were found guilty of the murder of the Hottentot Goliath.

The accused were sentenced to be hanged by the neck until dead.

25. Fiscal v The Free Black Woman, Dina, 12 June 1820, (C.J.813, p.504-519)

The accused, who was approximately 28 years of age and was born in the colony, was found guilty of theft.

\* The accused had two previous convictions for theft dated 18 September 1818 and 15 December 1819.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour at some secure place for 3 years.

26. Government Resident of Simonstown v The Prize Negro, Antony, 22 June 1820, (C.J.813, p.339-352)

The accused was found guilty of violence and entering a house at night with a weapon, with the intention of committing theft. The accused was also found guilty of threatening the persons who had assisted in his apprehension.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

27. Landdrost of Graaff Reinet v The Hottentot, Jan Swart (Alias Platie Swart), 22 June 1820, (C.J.813, p.353-367)

The accused, who was approximately 30 years of age, was found guilty of fraud and repeated theft.

Sentenced to be severely scourged. Thereafter to be confined in



irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the confinement to 3 years.*

28. Fiscal v Edward Woodhard, 22 June 1820, (C.J.813, p.384-397)  
The case was heard by the Court of Commissioners.  
The accused, who was 22 years of age, was found guilty of theft.  
Sentenced to be transported to New South Wales for 7 years.
29. Landdrost of The Cape District v The Hottentot, Klein Booy, 20 July 1820, (C.J.814, p.17-32)  
The accused, who was approximately 45 years of age, was found guilty of housebreaking and repeated theft. The accused was also found guilty of threatening with a knife.  
\* The accused had a previous conviction for housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
30. Landdrost of The Cape District v James Irwin, 20 July 1820, (C.J.814, p.33-50)  
The accused, who was 25 years of age and was born in Ireland, was found guilty of theft.  
Sentenced to be confined in irons and to labour on the public works at Robben Island for 1 year.
31. Fiscal v The Slave, Jacob of the Cape, 20 July 1820, (C.J.814, p.51-68)  
The accused, who was approximately 30 years of age, was found guilty of repeated fraud and theft.  
\* The accused had a previous conviction for theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour with his master for 5 years.
32. Landdrost of Uitenhage v The Black Constables, Jan Paap & America, 15 August 1820, (C.J.814, p.69-88)  
The first accused, who was approximately 37 years of age, and the second accused, who was approximately 40, were found guilty of receiving stolen goods.  
\* The second accused had a previous conviction for violent resistance and wounding dated 2 April 1808. The accused was sentenced to be confined in irons for 25 years.  
The accused were sentenced to be severely scourged. Thereafter the second accused to be confined in irons and to labour for the remainder of the period prescribed by his former sentence.
33. Landdrost of Tulbagh v The Hottentot, Stoffel Cornelis, 15 August 1820, (C.J.814, p.89-104)  
The accused, who was approximately 26 years of age, was found guilty of the murder of the Hottentot Jantje.  
Sentenced to be hanged by the neck until dead.
34. Landdrost of Graaff Reinet v The Hottentot, Gezwind, 15 August 1820, (C.J.814, p.105-118)  
The accused, who was approximately 22 years of age, was found

guilty of desertion, armed vagabondising, and repeated theft.

\* The accused had a previous conviction for stock theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

35. Landdrost of Tulbagh v The Hottentot, Willem Witbooy, 15 August 1820, (C.J.814, p.119-144)

The accused, who was approximately 23 years of age, was found guilty of the murder of Gerrit Beukes.

Sentenced to be hanged by the neck until dead.

36. Fiscal v William Pearson, 19 August 1820, (C.J.814, p.145-162)

The case was heard by the Court of Commissioners.

The accused, who was 29 years of age and was born in Prussia, was found guilty of breach of promise and seduction.

Sentenced to be banished from the colony for 15 years.

37. Secretary of The Cape District v The Slave, Abolon of the Cape & The Free Black, Dappad, 23 August 1820, (C.J.814, p.167-176)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was approximately 25 years of age, was found guilty of horse theft. The second accused, who was approximately 70 years of age, was found guilty of having been informed of the theft and not reporting it to the proper magistrate.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years. The confinement already undergone by the second accused was considered to be an adequate punishment.

\* Fiat Execution : *With the first accused to be confined in irons and to labour with his master for 2 years.*

38. Landdrost of Swellendam v The Slave, America from Mocambique, 29 August 1820, (C.J.814, p.127-194)

The accused, who was approximately 30 years of age, was found guilty of wounding his master.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

39. Fiscal v William Ferguson, 29 August 1820, (C.J.814, p.195-215)

The accused, who was 31 years of age and was born in Scotland, was found guilty of crimen falsi.

Sentenced to be transported to New South Wales for 7 years.

\* Fiat Execution : *With the punishment commuted to banishment for 7 years.*

40. Government Resident of Simonstown v The Hottentot, Klaas Vigilant, 29 August 1820, (C.J.814, p.221-238)

The accused, one of the Caffres of Justice, who was approximately 35 years of age, was found guilty of desertion, theft, and rape.

\* The accused had a previous conviction.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.

41. Fiscal v 1) Johan Smit; 2) The Hottentot, Hans Trompetter; 3) The Hottentot, David Stuurman; 4) The Slave, Absalon from Mocambique; 5) The Slave, Jan from Mocambique ; The Caffres; 6) Batty (Alias Hallega); 7) Jan Goula; 8) Jacob (No.1); 9) Jacob (No.2); 10) Jackown; 11) Jan & 12) Klaas, 2 September 1820, (C.J.814, p.239-322)

The first accused, who was 23 years of age and was born in Manheim, the second accused, who was approximately 40, the third accused, who was approximately 50, the fourth accused, who was approximately 28, the fifth accused, who was approximately 25, the sixth accused, who was approximately 25, the seventh accused, who was approximately 30, the eighth accused, who was approximately 50, the ninth accused, who was approximately 24, the tenth accused, who was approximately 18, the eleventh accused, who was approximately 28, and the twelfth accused, who was approximately 25, were found guilty of mutiny with arms in their hands, accompanied by murder, wounding, robbery, plunder and desertion.

The first and second accused were sentenced to be hanged by the neck until dead. The heads to be severed from the corpses with an axe and taken to Robben Island. To be exposed to the public view on irons spikes fixed to two separate poles especially erected for that purpose, as an example to deter others from doing the like. The fourth, fifth, sixth, and seventh accused were sentenced to be severely scourged. The fourth and fifth accused to be branded. The third, eighth, ninth, tenth, eleventh, and twelfth accused were sentenced to witness the execution. Thereafter the third accused to be transported for life to New South Wales. The fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth accused to be confined in irons and to labour on the public works for 14 years.

\* Court of Criminal Appeals : On 7 September 1820 the first accused, Johan Smit, lodged an appeal against his sentence with the Court of Criminal Appeals. On 20 November 1820 the Court dismissed the appeal.

42. Government Resident of Simonstown v John Treasure, 8 September 1820, (C.J.814, p.323-340)

The case was heard by the Court of Commissioners.

The accused was found guilty of theft.

Sentenced to be transported to New South Wales for 7 years.

43. Fiscal v The Prize Negro, Mey, from Mocambique, 8 September 1820, (C.J.814, p.341-354)

The case was heard by the Court of Commissioners.

The accused, who was approximately 18 years of age, was found guilty of repeated theft.

Sentenced to be severely scourged.

44. Fiscal v Jan Paap, 9 September 1820, (C.J.814, p.355-368)

The case was heard by the Court of Commissioners.

The accused was found guilty of theft.

\* The accused had a previous conviction for receiving stolen goods.

Sentenced to be transported to New South Wales for 7 years.

The accused was found guilty of theft.  
Sentenced to be severely scourged.

51. Landdrost of Graaff Reinet v The Hottentots : 1) Platje; 2) Ernst; The Female Hottentots; 3) Anna & 4) Regina, 18 October 1820, (C.J.814, p.510-527)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 30, the third accused, who was approximately 40, and the fourth accused, who was approximately 20, were found guilty of desertion in a gang, vagabondising, and theft of sheep. (Stock Theft)

\* The first three accused had previous convictions.

The first, second, and third accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the three accused to be confined in irons and to labour on the public works for 3 years. The fourth accused was sentenced to be severely flogged in prison by the Caffres of Justice.

52. Landdrost of Graaff Reinet v The Bushman, Orange, 18 October 1820, (C.J.814, p.528-549)

The case was heard by the Circuit Court at Graaff Reinet.

The accused was found guilty of being an accomplice to the murder of the slave Pedro and wounding her child.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.

53. Landdrost of Graaff Reinet v 1) The Hottentot, Wildschutte; 2) The Female Hottentot, Regina; & 3) The Female Bushman, Feitje, 18 October 1820, (C.J.814, p.550-567)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 35 years of age, the second accused, who was approximately 20, and the third accused, who was approximately 20, were found guilty of desertion, vagabondising, housebreaking, and theft.

\* The first two accused had previous convictions.

The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 5 years. The third accused was sentenced to be severely flogged in prison by the Caffres of Justice.

54. Landdrost of Graaff Reinet v The Hottentot, Klaas Flamink, 30 October 1820, (C.J.814, p.568-585)

The case was heard by the Circuit Court at Beaufort.

The accused, who was approximately 38 years of age, was found guilty of vagabondising, theft of sheep, and making resistance when he was apprehended. (Stock Theft)

55. Landdrost of Graaff Reinet v The Bushman, Vrolyk, 30 October 1820, (C.J.814, p.586-597)

The case was heard by the Circuit Court at Beaufort.

The accused, who was approximately 28 years of age, was found guilty of vagabondising and treacherously wounding the Hottentot

Schipper.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the branding.*

56. Landdrost of Graaff Reinet v The Hottentot, Booy, 30 October 1820, (C.J.814, p.598-611)

The case was heard by the Circuit Court at Beaufort.

The accused, who was approximately 26 years of age, was found guilty of wounding his concubine, with the intention of depriving her of her life. (Attempted Murder)

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for life.

57. Landdrost of Graaff Reinet v The Hottentot, Beyer, 30 October 1820, (C.J.814, p.612-620)

The case was heard by the Circuit Court at Beaufort.

The accused, who was approximately 38 years of age, was found guilty of vagabondising, housebreaking, and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

58. Landdrost of Tulbagh v The Hottentot, Cupido Danzer, 15 November 1820, (C.J.814, p.621-648)

The case was heard by the Circuit Court at Tulbagh.

The accused, who was approximately 20 years of age, was found guilty of vagabondising and culpable homicide.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.

59. Landdrost of Tulbagh v The Hottentots, Platje Willem & Hermanus Jonker, 16 November 1820, (C.J.814, p.649-670)

The case was heard by the Circuit Court at Tulbagh.

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 32, were found guilty of vagabondising and theft of cattle. (Stock Theft)

\* Both accused had previous convictions.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 8 years.

60. Landdrost of Tulbagh v The Hottentots, Fredrik Gertz & Jan Swart Willem, 16 November 1820, (C.J.814, p.671-690)

The case was heard by the Circuit Court at Tulbagh.

The first accused, who was approximately 25 years of age, and the second accused, who was approximately 28, were found guilty of vagabondising, housebreaking, and repeated theft.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works at the Drostdy for 10 years.

\* Fiat Execution : *With reduction of the confinement to 5 years.*

61. Landdrost of Tulbagh v The Hottentots, Ruiter & Piet Robert, 16 November 1820, (C.J.814, p.691-708)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who were both approximately 20 years of age, were found guilty of desertion, vagabondising in a gang, and repeated theft of cattle. (Stock Theft)  
\* Both accused had previous convictions for similar offences.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 6 years.
62. Landdrost of Stellenbosch v The Hottentot, Klaas, 22 November 1820, (C.J.814, p.709-726)  
The accused, who was approximately 25 years of age, was found guilty of repeated housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the the public works for 5 years.  
\* Fiat Execution : *With remission of the confinement to 2 years.*
63. Landdrost of Stellenbosch v The Hottentot, Cupido Lint, 23 November 1820, (C.J.814, p.727-744)  
The accused, who was approximately 18 years of age, was found guilty of desertion, vagabondising, aiding and assisting in repeated housebreaking, and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
64. Landdrost of Stellenbosch v The Slave, November from Mocambique & The Hottentot, Lafleur, 23 November 1820, (C.J.814, p.745-764)  
The first accused, who was approximately 35 years of age, and the second accused, who was approximately 20, were found guilty of vagabondising, repeated housebreaking, and theft.  
\* The first accused had a previous conviction dated 25 January 1817.  
The accused were sentenced to be severelly scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 10 years, and the second accused for 5 years.
65. Fiscal v The Hottentot, Abraham Leendert, 27 November 1820, (C.J.814, p.765-800)  
The accused, who was approximately 35 years of age, was found guilty of being an accomplice to the crimes of mutiny and open violence with arms, accompanied by murder, wounding, robbery, plunder, desertion, and forcible resistance to the Commando.  
\* The accused had two previous convictions dated 17 January 1811 and 6 April 1818.  
Sentenced to be hanged by the neck until dead. The head to be severed from the corpse and taken to Robben Island. To be exposed to the public view on an iron spike fixed to a pole especially erected for that purpose, as an example to deter others from doing the like. To remain there until consumed by the elements and the birds of prey.

66. Fiscal v John Stephen, 7 December 1820, (C.J.814, p.801-824)  
The accused, who was 23 years of age and was born in Scotland, was found guilty of concealing and making away with a barrel of gunpowder. (Theft)  
Sentenced to be transported to New South Wales for 3 years.  
\* Fiat Execution : *With remission of the punishment.*
67. Landdrost of Swellendam v The Slaves : 1) Abraham of the Cape; 2) Francois from Mocambique & 3) The Female Slave, Eva from Mocambique, 21 December 1820, (C.J.814, 825-855)  
The first and second accused, who were approximately 35 years of age, and the third accused, who was approximately 30, were found guilty of desertion and vagabondising in a gang. The first and second accused were also found guilty of housebreaking and theft, and the third accused of participating in the stolen goods.  
The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years. The third accused was sentenced to be severely flogged in prison by the Black Constables.  
\* Fiat Execution : *With the first and second accused to be confined in irons and to labour with their respective masters instead of on the public works. The third accused to be pardoned.*

#### 1821

1. The Secretary of The Cape District v 1) Klaas Keulkes; 2) The Hottentot, Agie & 3) The Bastard Hottentot, Fredrick Jacobs, 2 January 1821, (C.J.815, p.76-94)  
The case was heard by the Board of Landdrost and Heemraden.  
The first accused, who was 19 years of age and was born in the colony, was found guilty of theft. The second accused, who was approximately 16 years of age, and the third accused, who was approximately 13, were found guilty of receiving the stolen goods.  
The first accused was sentenced to be transported to New South Wales for 5 years. The second accused was sentenced to be confined in irons and to labour on the public works for 1 year. The third accused was sentenced to be severely flogged in prison by the Black Constables.  
\* Fiat Execution : *With the term of transportation to commence from the date of sentence.*
2. Landdrost of Swellendam v The Hottentot, Witbooy, 8 January 1821, (C.J.815, p.22-55)  
The accused, who was approximately 26 years of age, was found guilty of seducing and holding carnal communication with Francoise Christina Voorman, the daughter of his master. The accused was also found guilty of secretly burying the child, which was the fruit of that connection.  
Sentenced to be confined in irons and to labour on the public works for 15 years.  
\* Fiat Execution : *With remission of the confinement to 3 years.*

3. Landdrost of Stellenbosch v The Hottentot, Fredrik Adonis, 11 January 1821, (C.J.815, p.95-110)  
The accused, who was approximately 28 years of age, was found guilty of desertion, vagabondising, and theft.  
\* The accused had a previous conviction dated 8 July 1820.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works.  
\* Fiat Execution : *With remission of the branding.*
4. Landdrost of Stellenbosch v The Slave, Louis of the Cape, 18 January 1821, (C.J.815, p.56-75)  
The accused, who was approximately 35 years of age, was found guilty of wounding his master with a knife.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : *With remission of the punishment.*
5. Fiscal v The Moor, Mamedadie, 31 January 1821, (C.J.815, p.2-21)  
The case was heard by the Court of Commissioners.  
The accused was found guilty of being in possession of stolen money.  
Sentenced to be severely scourged. Thereafter to be banished from the colony for 10 years.
6. Landdrost of The Cape District v Ockert Christian Mostert, 5 February 1821, (C.J.815, p.111-145)  
The accused, who was 34 years of age, was found guilty of excessively cruel treatment of the female slave Lucretia. The accused was also found guilty of subsequent neglect in not applying the necessary remedies for her recovery. She died as a result. (Culpable Homicide)  
Sentenced to be banished from the colony for 25 years.
7. Secretary of The Cape District v The Slave, Roeboe of the Cape, 12 February 1821)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 22 years of age, was found guilty of horse theft and desertion. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With remission of the confinement in irons to 3 years, to be served by labouring with his master.*
8. Secretary of The Cape District v The Hottentots : 1) Andries; 2) Joris Mauritz & 3) The Female Hottentot, Veytje, 16 February 1821, (C.J.815, p.171-180)  
The case was heard by the Board of Landdrost and Heemraden.  
The first accused, who was approximately 45 years of age, and the second accused, who was approximately 25, were found guilty of vagabondising and receiving stolen food. The third accused, who was approximately 25 years of age, was found guilty of partaking of the food.  
The first and second accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and



to labour on the public works for 6 months. The third accused was sentenced to be severely flogged in prison.

9. Landdrost of Stellenbosch v The Prize Negro, Francis from Mocambique, 21 February 1821, (C.J.815, p.181-201)  
The accused, who was approximately 23 years of age, was found guilty of murder.  
Sentenced to be hanged by the neck until dead.
10. Secretary of The Cape District v The Hottentots : 1) Jan Theodoor; 2) Booy Slinger & 3) Platje, 28 February 1821, (C.J.815, p.146-161)  
The case was heard by the Board of Landdrost and Heemraden.  
The first accused, who was approximately 23 years of age, the second accused, who was approximately 32, and the third accused, who was approximately 23, were found guilty of the theft of cattle. (Stock Theft)
11. Landdrost of The Cape District v The Prize Negro, Namzebo from Mocambique, 1 March 1821, (C.J.815, p.213-226)  
The accused, who was approximately 25 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
12. Fiscal v The Slave, Fredrik of the Cape, 1 March 1821, (C.J.815, p.285-301)  
The accused, who was approximately 22 years of age, was found guilty of fraud and theft.  
\* The accused had two previous convictions for fraud dated 22 June 1816 and 24 March 1817.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
13. Fiscal v Jan Nicolaas Moes, 9 March 1821, (C.J.815, p.263-284)  
The case was heard by the Court of Commissioners.  
The accused, who was 24 years of age and was born in the colony, was found guilty of fraud and theft.  
Sentenced to be banished from the colony for 5 years.  
\* Fiat Execution : *With the term of banishment to be calculated from the date of sentence.*
14. Fiscal v Frederik Abrahamse, 13 March 1821, (C.J.815, p.202-212)  
The case was heard by the Court of Commissioners.  
The accused was found guilty of theft in the public street.  
Sentenced to be confined in irons and to labour on the public works for 3 years.
15. Fiscal v The Slaves, April of the Cape & Abraham of the Cape, 15 March 1821, (C.J.815, p.227-242)  
The first accused, who was approximately 26 years of age, was found guilty of vagabondising, housebreaking, and theft. The second accused, who was approximately 26 years of age, was found

guilty of being an accomplice.

\* The first accused had a previous conviction for repeated theft dated 13 April 1820.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons. The first accused to labour on the public works for 5 years. The second accused to labour with his master for 2 years.

16. Fiscal v John Helsby, 21 March 1821, (C.J.815, p.243-262)

The case was heard by the Court of Commissioners.

The accused, who was 25 years of age and was born in England, was found guilty of theft.

Sentenced to be transported to New South Wales for 7 years.

\* Fiat Execution : *With remission of the punishment.*

17. Landdrost of The Cape District v The Bastard Hottentot, Maart & The Slave, Onverwacht from Mocambique, 16 April 1821, (C.J.815, p.335-357)

The first accused, who was approximately 27 years of age, and the second accused, who was approximately 25, were found guilty of murder, accompanied with robbery on the highway.

The accused were sentenced to be hanged by the neck until dead.

18. Fiscal v John Johnson, 29 April 1821, (C.J.815, p.314-334)

The case was heard by the Court of Commissioners.

The accused, who was 25 years of age and was born in England, was found guilty of fraud and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With the punishment remitted to a flogging in the prison.*

19. Government Resident of Simonstown v The Prize Negro, April from Mocambique, 15 May 1821, (C.J.815, p.369-385)

The case was heard by the Court of Commissioners.

The accused, who was approximately 30 years of age, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour with his master for 6 months.

20. Fiscal v The Slave, Daniel of the Cape, 16 May 1821, (C.J.815, p.358-368)

The case was heard by the Court of Commissioners.

The accused, who was approximately 20 years of age, was found guilty of theft.

Sentenced to be severely scourged and then returned to his master.

\* Fiat Execution : *With remission of the scourging.*

21. Fiscal v James Pelling, 1 June 1821, (C.J.815, p.386-400)

The case was heard by the Court of Commissioners.

The accused, who was 25 years of age and was born in England, was found guilty of theft.

Sentenced to be severely flogged in prison by the Constables.

Thereafter to be confined to labour on Robben Island for 1 year.

\* Fiat Execution : *With remission of the confinement.*

22. Landdrost of Tulbagh v The Slave, Abraham of the Cape, 21 June 1821, (C.J.815, p.401-409)

The case was heard by the Circuit Court at Tulbagh.

The accused, who was approximately 25 years of age, was found guilty of desertion, repeated housebreaking, and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With remission of the branding, and the confinement in irons to be in his master's service.*

23. Fiscal v The Free Black Woman, Philida, 4 July 1821, (C.J.815, p.410-426)

The case was heard by the Court of Commissioners.

The accused was found guilty of theft, accompanied with violence.

Sentenced to be severely scourged.

\* Fiat Execution : *With the scourging remitted to a flogging in prison.*

24. Fiscal v Stephen Geary, 16 July 1821, (C.J.815, p.447-462)

The case was heard by the Court of Commissioners.

The accused, who was 45 years of age and was born in Ireland, was found guilty of repeated theft.

\* The accused had two previous convictions for theft dated 6 December 1819 and 27 January 1820.

Sentenced to be transported to New South Wales for 7 years.

25. Fiscal v Samuel Brimmer & Pieter De Geest, 20 July 1821, (C.J.815, p.427-446)

The case was heard by the Court of Commissioners.

The first accused, who was 57 years of age and was born in England, was found guilty of theft. The second accused, who was 30 years of age and was born in Brabant, was found guilty of receiving the stolen goods.

The accused were sentenced to be severely scourged.

\* Fiat Execution : *With remission of the punishment.*

26. Landdrost of Stellenbosch v The Slaves : 1) Christian; 2) Michiel; 3) Lyser; 4) Africa; The Female Slaves : 5) Lea; 6) Philida; 7) Philida & 8) The Slave, Isaac, 30 July 1821, (C.J.815, p.463-510)

The first accused, who approximately 36 years of age, the second accused, who was approximately 28, the third accused, who was approximately 45, the fourth accused, who was approximately 45, the fifth accused, who was approximately 18, the sixth accused, who was approximately 25, and the seventh accused, who was approximately 20, were found guilty of desertion and vagabondising in a gang. The first, second, third, and fourth accused were found guilty of the repeated theft of cattle, theft from gardens, and violence. The first accused was also found guilty of the murder of the slave Beginsel. The fifth, sixth, and seventh accused were found guilty of being accomplices to the repeated thefts and of participating in the stolen goods. The

eighth accused, who was approximately 45 years of age, was found guilty of keeping an understanding with and harbouring the other accused during their desertion.

\* The second accused had a previous conviction for theft dated 6 July 1820.

The first accused was sentenced to be hanged by the neck until dead. The second and third accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fourth, fifth, sixth, seventh, and eighth accused, to be severely scourged. The second, third, and fourth accused to be branded. Thereafter the second, third, fourth, and eighth accused to be confined in irons and to labour on the public works. The second and third accused for life, the fourth accused for 15 years, and the eighth accused for 3 years.

27. Landdrost of Graaff Reinet v Jacob Theron, 1 August 1821, (G.H.47/2/18, p.1-304; G.H.47/1/1, p.116 et seq.)

The case was heard by the Circuit Court at Beaufort.

The accused was found guilty of trading with Hottentots and Kaffers in contravention of the Proclamation dated 16 June 1774.

The accused was sentenced to pay a fine of 25 Rixdollars. The court further ordered that the merchandise, which was contained in three waggons, was to be confiscated.

\* Court of Criminal Appeals : On 7 August 1821 the accused lodged an appeal against his conviction and sentence with the Court of Criminal Appeals. On 13 November 1822 the Court reversed that part of the sentence whereby the merchandise was declared to be confiscated. The Court ordered that the merchandise be restored to the appellant, save an except certain gunpowder, lead, and gun flints.

28. Landdrost of Swellendam v The Hottentot, Jan Booy, 2 August 1821, (C.J.815, p.572-589)

The accused, who was approximately 25 years of age, was found guilty of desertion, housebreaking, and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

29. Secretary of The Cape District v Petrus Johannes Laubscher, 2 August 1821, (C.J.815, p.623-631)

The case was heard by the Board of Landdrost and Heemraden.

The accused was found guilty of the seduction or theft of a female slave.

\* The accused had a previous conviction for a similar offence.

Sentenced to be banished from the colony for 3 years.

\* Fiat Execution : With the term of banishment to be calculated from the date when the accused was placed on Robben Island.

30. Secretary of The Cape District v The Bastard Hottentot, Fortuin, 2 August 1821, (C.J.815, p.632-637)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 40 years of age, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

31. Fiscal v Cornelis Van den Berg, 6 August 1821, (C.J.815, p.603-614)  
The case was heard by the Court of Commissioners.  
The accused, who was 25 years of age and was born in the colony, was found guilty of theft.  
Sentenced to be confined to labour on the public works works at Robben island for 1 year.
32. Landdrost of George v The Hottentots, Klaas & Andries, 16 August 1821, (C.J.815, p.590-602)  
The first accused, who was approximately 20 years of age, and the second accused, who was approximately 17, were found guilty of housebreaking and theft.  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years.
33. Secretary of The Cape District v The Slave, Appollus from Bengal, 16 August 1821, (C.J.815, p.615-622)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 35 years of age, was found guilty of the theft of a gun and robbing a waggon on the highroad.  
\* The accused had a previous conviction for wounding and attempted murder dated 10 August 1809.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.
34. Secretary of The Cape District v The Slave, Azor from Bourbon & The Prize Negro, Apollus from Mocambique, 21 August 1821, (C.J.815, p.511-520)  
The case was heard by the Board of Landdrost and Heemraden.  
The first accused, who was approximately 30 years of age, was found guilty of repeated theft, accompanied by housebreaking. The second accused, who was approximately 28 years of age, was found guilty of theft.  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 7 years, and the second accused for 3 years.  
\* Fiat Execution : *With remission of the second accused's confinement to 1 year.*
35. Landdrost of Tulbagh v Carel Becornte, 21 August 1821, (C.J.815, p.521-556)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was 55 years of age and was born in Guilderland, was found guilty of fraud, wounding the slave Esau, and public violence on the person of Cornelis Johannes Jooste.  
Sentenced to be banished from the colony for life.

36. Landdrost of Tulbagh v The Slave, Titus of the Cape & The Hottentot, Jantje, 21 August 1821, (C.J.815, p.633-666)  
The case was heard by the Circuit court at Clanwilliam.  
The first accused, who was approximately 37 years of age, and the second accused, who was approximately 12, were found guilty of the theft of sheep. (Stock Theft)  
\* The first accused had a previous conviction for a similar offence dated 5 May 1821.  
The first accused was sentenced to be severely scourged. Thereafter to be confined in irons for 2 years and to labour with his master. The second accused was sentenced to be severely flogged in prison.
37. Landdrost of Stellenbosch v The Hottentots : 1) Hendrik Booysen; 2) Hans (Alias Hans Carolus); 3) Abraham (Alias Abraham Carolus) & 4) Jan Kieviet (Alias Herries), 30 August 1821, (C.J.815, p.638-652)  
The first accused, who was approximately 25 years of age, the second accused, who was approximately 30, the third accused, who was approximately 40, and the fourth accused, who was approximately 40, were found guilty of desertion and vagabondising. The first and second accused were also found guilty of the theft of sheep. (Stock Theft)  
\* The first accused had a previous conviction dated 8 July 1820.  
The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the second accused for 2 years. The third accused was sentenced to be flogged in prison by the Black Constables. The confinement already undergone by the fourth accused was considered to be a sufficient punishment.
38. Landdrost of Tulbagh v The Hottentot, Jan Stout, 31 August 1821, (C.J.815, p.557-571)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 48 years of age, was found guilty of housebreaking and theft.  
\* The accused had a previous conviction dated 27 February 1819.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 10 years.
39. Landdrost of Tulbagh v The Hottentot, Cupido, 1 September 1821, (C.J.815, p.667-682)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 25 years of age, was found guilty of wounding the Hottentot Willem.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 1 year.
40. Landdrost of Tulbagh v The Hottentot, Jan Flip, 1 September 1821, (C.J.815, p.751-765)  
The case was heard by the Circuit Court at Tulbagh.  
The accused, who was approximately 20 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 5 years.

41. Secretary of The Cape District v The Prize Negro, Pieter from Mocambique, 3 September 1821, (C.J.815, p.683-688)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 30 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
42. Fiscal v William James, 4 September 1821, (C.J.815, p.766-778)  
The case was heard by the Court of Commissioners.  
The accused, who was 25 years of age and was born in England, was found guilty of theft.  
Sentenced to be severely scourged.  
\* Fiat Execution : *With the punishment remitted to a flogging in the prison.*
43. Landdrost of Stellenbosch v The Hottentot, Arend, 5 September 1821, (C.J.815, p.819-829)  
The accused, who was approximately 25 years of age, was found guilty of housebreaking and theft.  
\* The accused had a previous conviction for repeated theft dated 15 March 1821.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
44. Landdrost of Stellenbosch v The Body of the Deceased Prize Negro, Francisco, 5 September 1821, (C.J.815, p.830-835)  
The accused, 'after having cruelly murdered Henry Collins, laid violent hands upon himself; which could not have been with any other intention than by that means to evade the punishment he had so justly merited'.  
The Court condemned the Body of the said Francisco to be brought to the neighbourhood of Clapmuts and to be hung in chains near the public road. The corpse to remain there until consumed by the elements and the birds of prey.
45. Fiscal v John Bourke, 5 September 1821, (C.J.815, p.862-881)  
The accused, who was 24 years of age and was born in Ireland, was found guilty of fabricating forged money.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.  
\* Fiat Execution : *With the punishment remitted to confinement in irons and to labour on the public works for 7 years.*
46. Fiscal v Jan Willem Steensma, 10 September 1821, (C.J.815, p.844-861)  
The case was heard by the Court of Commissioners.  
The accused, who was 38 years of age and was born in Friesland,

was found guilty of neglect of duty and fraud.  
Sentenced to be confined in irons and to labour on the public works for 6 months.

47. Deputy Landdrost of Worcester v 1) The Hottentot Platje Mauritz; 2) The Female Hottentot, Meitje & 3) The Female Hottentot, Sanna, 11 September 1821, (C.J.815, p.689-703)

The case was heard by the Circuit Court at Worcester.

The first accused, who was approximately 35 years of age, was found guilty of vagabondising, housebreaking, and theft. The second accused, who was approximately 35 years of age, and the third accused, who was approximately 20 years of age, were found guilty of being accomplices to the housebreaking and theft.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years. The second and third accused were sentenced to be severely flogged in the common gaol.

48. Deputy Landdrost of Worcester v The Slave, Carolus from Mocambique, 11 September 1821, (C.J.815, p.704-722)

The case was heard by the Circuit Court at Worcester.

The accused, who was approximately 23 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

49. Deputy Landdrost of Worcester v The Hottentots : 1) Klaas Willemse; 2) Jacob Kaffer & 3) The Slave, Pedro, 11 September 1821, (C.J.815, p.723-750)

The case was heard by the Circuit Court at Worcester.

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 22, were found guilty of the dreadful and wicked intention to murder the wife and children of Hendrik Griewel in the most cruel manner. The first and second accused were also found guilty of housebreaking and theft. In addition, the first accused was found guilty of threatening the female Hottentot Mina with a knife. The third accused was found guilty of theft.

The accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works. The first accused for 25 years, and the second accused for 15 years. The third accused to be confined in irons for 1 year and to labour with his master.

50. Deputy Landdrost of Worcester v The Hottentot, Andries, 11 September 1811, (C.J.815, p.779-798)

The case was heard by the Circuit Court at Worcester.

The accused was found guilty of repeated vagabondising and the theft of sheep. (Stock Theft)

\* The accused had a previous conviction dated 23 September 1819. Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

\* Fiat Execution : *With remission of the confinement to 7 years.*



51. Landdrost of Graaff Reinet v Hendrik Lubbe, 24 September 1821, (C.J.815, p.799-818)

The case was heard by the Circuit Court at Beaufort.

The accused, who was 40 years of age and was born in the colony, was found guilty of the gross ill-treatment of his late slave Pero and the female Hottentot Sarah.

Sentenced to be confined on Robben Island for 3 years.

52. Landdrost of Graaff Reinet v The Hottentot, Africander, 24 September 1824, (C.J.815, p.836-843 & p.890-896)

The case was heard by the Circuit Court at Beaufort.

The accused, who was approximately 26 years of age, was found guilty of manslaughter. (Culpable Homicide)

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

\* Fiat Execution : *With remission of the punishment*.

53. Landdrost of Graaff Reinet v The Hottentots : 1) Mandoor; 2) Adam & 3) Jannetie, 1 October 1821, (C.J.815, p.987-1001)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 33 years of age, and the second accused, who was approximately 30, were found guilty of vagabondising, housebreaking, theft. The third accused, who was approximately 20 years of age, was found guilty of being an accomplice to the housebreaking and theft.

The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years. The third accused was sentenced to be severely flogged in the common gaol.

54. Landdrost of Graaff Reinet v The Hottentots : 1) Lambert; 2) Michiel; The Female Hottentots : 3) Kaatje & 4) Kaatje, 1 October 1821, (C.J.815, p.1002-1018)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 26, were found guilty of vagabondising, housebreaking, and theft. The third accused, who was approximately 30 years of age, and the fourth accused, who was approximately 22, were found guilty of being accomplices to the housebreaking and theft.

\* The first and second accused had previous convictions for similar offences dated 17 January 1818.

The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years. The third and fourth accused were sentenced to be severely flogged in the gaol by the Black Constables.

55. Landdrost of Graaff Reinet v Marthinus Blom, 1 October 1821, (C.J.815, p.1030-1038)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was 34 years of age and was born in Brandenburg, was found guilty of a murderous assault on Frans Voerman, which resulted in his death. (Murder)

Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *With the sentence commuted to confinement in the prison at Graaff Reinet until 8 July 1822.*

56. Landdrost of Graaff Reinet v The Slave, Joseph of the Cape, 2 October 1821, (C.J.815, p.897-909)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 35 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons for 3 years and to labour with his mistress.

57. Landdrost of Graaff Reinet v The Hottentots : 1) Willem Gert; 2) Fortuin; 3) Kieviet; The Female Hottentots : 4) Feitje; 5) Mietje & 6) Sarah, 4 October 1821, (C.J.815, p.910-927)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 23, and the third accused, who was approximately 25, were found guilty of vagabondising, theft of cattle, and other thefts. The third accused was also found guilty of housebreaking and theft, and wounding the Hottentot Klaas. The fourth, fifth, and sixth accused were found guilty of being accomplices.

The first, second, and third accused were sentenced to be severely scourged and branded. Thereafter the three accused to be confined in irons and to labour on the public works. The first and second accused for 7 years at Robben Island, and the third accused for 3 years at the Drostdy. The fourth, fifth and sixth accused were sentenced to be severely flogged in the prison by the Black Constables.

58. Landdrost of Graaff Reinet v 1) The Hottentot, Platje; The Female Hottentots : 2) Regina; 3) Griet & 4) Dina, 4 October 1821, (C.J.815, p.928-942)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of vagabondising. The first accused was also found guilty of the theft of sheep, and the second, third, and fourth accused of participating therein. (Stock Theft)

\* The first and second accused had previous convictions for similar offences dated 18 October 1820.

The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 5 years. The third and fourth accused were sentenced to be severely flogged in prison by the Black Constables.

59. Landdrost of Graaff Reinet v The Hottentot, Jantje, 4 October 1821, (C.J.815, p.1019-1029)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 20 years of age, was found guilty of arson.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

60. Government Resident of Simonstown v Thomas Allen, 19 October 1821, (C.J.815, p.943-960)  
The case was heard by the Court of Commissioners.  
The accused, who was 40 years of age and was born in Ireland, was found guilty of theft, which was aggravated by his situation as a Custom's House Officer.  
Sentenced to be transported to New South Wales for 7 years.  
*\* Fiat Execution : With the punishment commuted to banishment from the colony.*
61. Landdrost of Albany v William Sykes, 19 October 1821, (C.J.815, p.973-986)  
The case was heard by the Circuit Court at Bathurst.  
The accused, who was 47 years of age and was born in England, was found guilty of wounding Edward Driver.  
Sentenced to be transported to New South Wales for 14 years.
62. Fiscal v James Hermitage & Richard Baker, 26 October 1821, (C.J.815, p.961-972)  
The case was heard by the Court of Commissioners.  
The first accused, who was 29 years of age and was born in England, and the second accused, who was 28 years of age and was born in England, were found guilty of theft in the open streets, aggravated by the clandestine manner in which they left the barracks at night.  
The accused were sentenced to be confined to labour on the public works at Robben Island for 1 year.
63. Fiscal v Jan Daniel Disandt, 5 November 1821, (C.J.815, p.1039-1057)  
The case was heard by the Court of Commissioners.  
The accused, who was 21 years of age and was born in the colony, was found guilty of forgery and fraud.  
Sentenced to be banished from the colony for 3 years.  
*\* Fiat Execution : With the accused's confinement at Robben Island, pending banishment, to be remitted to confinement in the Tronk.*
64. Landdrost of Stellenbosch v The Slave, April of the Cape, 7 November 1821, (C.J.815, p.1058-1077)  
The accused, who was approximately 20 years of age, was found guilty of murder, aggravated by an attempt on his own life.  
Sentenced to be hanged by the neck until dead. The accused's head and right hand to be severed from his body and publicly exposed on a pole in the neighbourhood of the village of Stellenbosch. To remain there until consumed by the elements and the birds of prey.
65. Secretary of The Cape District v John Bowers, 12 November 1821, (C.J.815, p.1090-1099)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was 26 years of age and was born in England, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be transported to New South Wales for 5 Years.

66. Secretary of The Cape District v The Bastard Hottentot, Jan Noach & The Prize Negro, Lendor, 13 November 1821, (C.J.815, p.1078-1089)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was approximately 25 years of age, was found guilty of theft. The second accused, who was approximately 25 years of age, was found guilty of being an accomplice.

\* The first accused had a previous conviction for theft dated 27 July 1821.

The accused were sentenced to be severely flogged. Thereafter both the accused to be confined in irons. The first accused to labour on the public works for 5 years, and the second accused to labour with his master for 6 months.

67. Secretary of The Cape District v 1) The Slave, Sampson from Mocambique; 2) The Hottentot, Vrolyk Diederik; 3) The Female Hottentot, Caatje & 4) The Female Hottentot, Leentje, 29 November 1821, (C.J.815, p.1100-1103)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was approximately 40 years of age, was found guilty of theft. The second accused, who was approximately 20 years of age, the third accused, who was approximately 26, and the fourth accused, who was approximately 26, were found guilty of being accomplices.

The first and second accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works for 1 year. The third and fourth accused were sentenced to be severely flogged in prison. Thereafter the second, third, and fourth accused to be banished from the district.

68. Fiscal v The Slave, Hendrik of the Cape, 6 December 1821, (C.J.815, p.1104-1122)

The accused, who was approximately 25 years of age, was found guilty of ill-treating his concubine, whom he knew to be pregnant. 'In consequence of which she was prematurely delivered of a dead child, which had lived shortly before that ill-treatment'.

\* The accused had a previous conviction for participating in a daring housebreaking and theft dated 30 December 1817.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at Robben Island for life.

## 1822

1. Fiscal v The Slave, Africa of the Cape, 14 January 1822, (C.J.816, p.2-18)

The case was heard by the Court of Commissioners.

The accused, who was approximately 73 years of age, was found guilty of desertion and theft.

Sentenced to be severely scourged and then returned to his master.

2. Fiscal v John Rawdon & John Parkinson, 15 January 1822, (C.J.816, p.19-42)

The accused, who were 20 years of age and were born in Ireland, were found guilty of endeavouring to pass forged paper money. The first accused especially of a frequent repetition of the crime. The accused were sentenced to be transported to New South Wales. The first accused for 7 years, and the second accused for 5 years.

3. Fiscal v The Hottentots : 1) Jan Noach; 2) Marthinus May; 3) The Slave, Manuel of the Cape & 4) The Free Black, Antony Perreira, 15 January 1822, (C.J.816, p.43-71)

The first accused, who was approximately 27 years of age, and the second accused, who was approximately 26, were found guilty of housebreaking and theft. The third accused, who was approximately 28 years of age, was found guilty of theft. The fourth accused, who was approximately 40 years of age, was found guilty of purchasing the stolen goods.

\* The first and second accused had previous convictions for similar offences.

The first, second, and third accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first three accused to be confined in irons. The first accused for 10 years and to labour on the public works at Robben Island. The second accused for 15 years and to labour on the public works at Robben Island. The third accused for 3 years and to labour with his master. The fourth accused was sentenced to be severely flogged in prison by the Black Constables and then discharged.

4. Landdrost of Graaff Reinet v The Hottentot, Windvogel, 17 January 1822, (C.J.816, p.88-93)

The accused, who was approximately 13 years of age, was found guilty of murder.

Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *With the punishment commuted to confinement and hard labour on the public works at Robben Island for life.*

5. Secretary of The Cape District v The Hottentot, Cobus Cobusse, 22 January 1822, (C.J.816, p.84-87)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 34 years of age, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

6. Fiscal v The Prize Negro, Peter from Mocambique, 29 January 1822, (C.J.816, p.72-83)

The case was heard by the Court of Commissioners.

The accused, who was approximately 23 years of age, was found guilty of theft, which was aggravated by his having made a false key to commit the act.

Sentenced to be severely scourged and then returned to his master.

7. Fiscal v William Wheeler, 11 February 1822, (C.J.816, p.94-104)

The case was heard by the Court of Commissioners.

The accused, who was 23 years of age and was born in England, was found guilty of perjury.

Sentenced to be exposed to the public view with a board round his neck, containing the words 'False Witness'. Thereafter to be banished from the colony for 10 years.

8. Fiscal v Abraham van Kennon, 17 February 1822, (C.J.816, p.105-127)  
The case was heard by the Court of Commissioners.  
The accused was found guilty of ravishing a girl who was not yet twelve. (Rape)  
Sentenced to be severely scourged. Thereafter to be banished for life from the colony.  
\* Fiat Execution : *With remission of the punishment to a flogging in prison.*
9. Secretary of The Cape District v The Slave, Primo of the Cape, 18 February 1822, (C.J.816, p.128-131)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 25 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons for 1 year and to labour with his master.
10. Fiscal v The Slave, Isaac of the Cape, 11 March 1822, (C.J.816, p.190-200)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 22 years of age, was found guilty of vagabondising and theft.  
Sentenced to be severely scourged and then returned to his master.
11. Landdrost of Tulbagh v The Hottentot, Piet Hans, 14 March 1822, (C.J.816, p.132-148)  
The accused, who was approximately 30 years of age, was found guilty of ill-treating Hans Minie, which resulted in the latter's death. (Culpable Homicide)  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
12. Landdrost of Tulbagh v The Hottentot, Willem Platje, 14 March 1822, (C.J.816, p.172-189)  
The accused, who was approximately 23 years of age, was found guilty of the murder of the Hottentot Jan.  
Sentenced to be hanged by the neck until dead.
13. Secretary of The Cape District v Pieter Lezars, 18 March 1822, (C.J.816, p.201-206)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was 29 years of age and was born in the colony, was found guilty of purchasing and concealing stolen goods.  
Sentenced to be transported to New South Wales for 3 years.  
\* Fiat Execution : *With the punishment commuted to 3 months imprisonment in the Tronk.*

14. Fiscal v Johan Duffek, 22 March 1822, (C.J.816, p.149-171)  
The case was heard by the Court of Commissioners.  
The accused, who was 50 years of age and was born in Prague, was found guilty of attempted murder.  
Sentenced to be banished from the colony for 6 years.
15. Secretary of The Cape District v The Free Black, Mey, 25 March 1822, (C.J.816, p.207-220)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused was found guilty of the murderous wounding of the slave August.  
\* The accused had a previous conviction for housebreaking and theft dated 27 August 1816.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 7 years.
16. Landdrost of Graaff Reinet v 1) Anna Susanna Sauer; 2) The Female Slave, Rosalyn; 3) The Female Hottentot, Philida; 4) The Slave, Letjou & 5) The Female Slave, Mina, 2 April 1822, (G.H.47/2/23, p.469-497; G.H.49/22, p.38-149 & G.H.47/1/1, p.119 et seq.)  
The first accused was found guilty of an attempt to procure an abortion and, after having given birth to a living child, of consenting that the child should be killed by the second accused. The second accused was found guilty of having administered the means which she knew were calculated to promote the abortion. The second accused was also found guilty of killing the child. The third accused was found guilty of administering the means to promote the abortion. The third accused was also found guilty of not preventing the second accused from killing the child and of concealing the crime. The fourth accused was found guilty of having buried the body of the child, with the intention of concealing the crime. The fifth accused was found guilty of having administered the means which she knew were calculated to promote the abortion.  
The first, second, and third accused were sentenced to be brought to the place of execution at Graaff Reinet and to be delivered to the executioner. The first and second accused to be tied to a stake and strangled to death. The third accused to be exposed under the gallows with a rope round her neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life. The fourth accused was sentenced to witness the execution. Thereafter to be confined in irons for 1 year and to labour with his master. The fifth accused was sentenced to be confined in the local prison for 1 year.  
\* Court of Criminal Appeals : *The first, second, third, and fifth accused lodged an appeal against their sentences with the Court of Criminal Appeals. The first accused lodged her appeal on 6 April 1822. On 4 June 1822 the Court reversed that part of the sentence whereby she was condemned to be strangled to death. The second, third, and fifth accused lodged their appeal on 15 June 1822. On 13 November 1822 the Court dismissed the second accused's appeal. The Court admitted the third accused's appeal and altered the sentence to hard labour on the public works for 1 year. The fifth accused's appeal was upheld and the sentence was reversed.*

\* Fiat Execution : With suspension of the second accused's punishment and remitting the third accused's punishment in consequence of her lengthy confinement. The second accused was subsequently pardoned upon the condition that she be imprisoned and kept at hard labour for 5 years.

17. Landdrost of Tulbagh v The Hottentot, Hermanus, 2 May 1822, (C.J.816, p.304-315)

The case was heard by the Circuit Court at Tulbagh.

The accused, who was approximately 36 years of age, was found guilty of desertion, housebreaking, and repeated theft.

\* The accused had a previous conviction for stock theft dated 27 September 1816.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

18. Landdrost of Tulbagh v The Hottentot, Arnold Wilderman, 2 May 1822, (C.J.816, p.316-327)

The case was heard by the Circuit Court at Tulbagh.

The accused, who was approximately 40 years of age, was found guilty of housebreaking and theft.

\* The accused had a previous conviction for stock theft dated 13 October 1820.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

19. Landdrost of Tulbagh v The Hottentot, Jantje Cupido, 2 May 1822, (C.J.816, p.328-341)

The case was heard by the Circuit Court at Tulbagh.

The accused, who was approximately 35 years of age, was found guilty of desertion, vagabondising, and repeated theft.

\* The accused had a previous conviction for housebreaking and theft dated 3 September 1818.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

20. Fiscal v The Slave, Domingo from Mocambique, 2 May 1822, (C.J.816, p.342-359)

The accused, who was approximately 30 years of age, was found guilty of repeated housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

21. Deputy Landdrost of Worcester v The Hottentot, Eva, 6 May 1822, (C.J.816, p.232-247)

The case was heard by the Circuit Court at Worcester.

The accused, who was approximately 20 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

22. Deputy Landdrost of Worcester v The Slaves, Maart of the Cape & Hendrik of the Cape, 6 May 1822, (C.J.816, p.254-289)

The case was heard by the Circuit Court at Worcester.



The first accused, who was approximately 27 years of age, was found guilty of vagabondising, theft of sheep, housebreaking, theft, and of being an accomplice to a housebreaking and theft. The second accused, who was approximately 20 years of age, was found guilty of desertion, vagabondising, theft of a horse, together with a bridle and saddle, and theft of sheep. (Stock Theft)

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour with their respective masters. The first accused for 5 years, and the second accused for 1 year.

23. Secretary of The Cape District v David Reynoldson, 10 May 1822, (10 May 1822)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 34 years of age, was found guilty of receiving stolen goods.

Sentenced to be transported to New South Wales for 3 years.

24. Landdrost of Graaff Reinet v The Bushmen : 1) Jonker; 2) Platje & 3) Beginsel, 23 May 1822, (C.J.816, p.290-303)

The first accused, who was approximately 20 years of age, the second accused, who was approximately 25, and the third accused, who was approximately 20, were found guilty of the murder of the Hottentot Jantje. The accused were also found guilty of the theft of the deceased's clothes and four oxen. (Stock Theft)

The accused were sentenced to be hanged by the neck until dead.

25. Landdrost of Graaff Reinet v The Hottentot, Jacob, 25 May 1822, (C.J.816, p.360-365)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 30 years of age, was found guilty of wounding his wife with a knife.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 3 years.

26. Landdrost of George v John Walker, 28 May 1822, (C.J.816, p.366-423)

The accused, who was 38 years of age and was born in England, was found guilty of murder and robbery on the highway.

Sentenced to be hanged by the neck until dead.

27. Fiscal v The Hottentot, David & The Slave, Adonis, 17 June 1822, (C.J.816, p.424-436)

The case was heard by the Court of Commissioners.

The first accused, who was approximately 20 years of age, and the second accused, who was approximately 25, were found guilty of desertion, housebreaking, and theft.

The accused were sentenced to be severely scourged and then returned to their respective masters.

28. Secretary of The Cape District v The Slave, Dollie of the Cape, 19 June 1822, (C.J.816, p.472-478)

The case was heard by the Board of Landdrost and Heemraden. The accused, who was approximately 18 years of age, was found guilty of theft and receiving stolen goods. Sentenced to be severely scourged. Thereafter to be confined in irons for 1 year and to labour with his master.  
\* Fiat Execution : *With remission of the public punishment on condition that the accused be taken to one of the outlying districts.*

29. Landdrost of Stellenbosch v The Hottentot, Andries, 20 June 1822, (C.J.816, p.437-454)

The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft. Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

30. Landdrost of Graaff Reinet v 1) The Bushman, Valentyn; 2) The Female Bushman, Giel & 3) The Female Bushman, Lys, 20 June 1822, (C.J.816, p.455-465)

The first accused, who was approximately 38 years of age, the second accused, who was approximately 20, and the third accused, who was approximately 25, were found guilty of vagabondising. The first accused was also found guilty of the theft of cattle, the second accused of aiding and assisting therein, and the third accused of participating in the stolen meat. (Stock Theft)

\* The first accused had a previous conviction for a similar offence.

The first accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years. The second accused was sentenced to be severely flogged in prison by the Black Constables. The confinement already undergone by the third accused was considered to be an adequate punishment.

31. Secretary of The Cape District v The Hottentots, Mans Ruyter & Isaac Blombos, 24 June 1822, (C.J.816, p.446-471)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was approximately 40 years of age, was found guilty of the theft of cattle. The second accused, who was approximately 18 years of age, was found guilty of being an accomplice. (Stock Theft)

The first accused was sentenced to be severely scourged and the second accused was sentenced to be severely flogged in prison. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 2 years, and the second accused for 6 months.

32. Fiscal v John Arney & James Buckley, 18 July 1822, (C.J.816, p.479-507)

The first accused, who was 42 years of age and was born in England, and the second accused, who was 29 years of age and was born in England, were found guilty of the theft of goods, which were floating in the sea and which belonged to the wrecked ship Fame.

The accused were sentenced to be transported to New South Wales for 7 years.

33. Fiscal v The Female Slave, Regina of the Cape, 12 August 1822, (C.J.816, p.508-525)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 30 years of age, was found guilty of theft.  
\* The accused had a previous conviction for theft dated 31 march 1822.  
Sentenced to be severely scourged and then returned to her master.  
\* Fiat Execution : *With the scourging commuted to flogging in prison.*
34. Landdrost of Tulbagh v The Hottentots : 1) Hendrik Booy; 2) Hannes Vigilant & 3) The Female Hottentot, Marie, 29 August 1822, (C.J.816, p.526-541)  
The first accused, who was approximately 33 years of age, and the second accused, who was approximately 26, were found guilty of the theft of sheep. The third accused, who was approximately 24 years of age, was found guilty of receiving and concealing the stolen meat. (Stock Theft)  
\* The first and second accused had previous convictions.  
The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years. The third accused was sentenced to be flogged in prison by the Black Constables and then discharged.
35. Landdrost of Tulbagh v The Hottentots, Willem Pharao & Kobus (Alias Kootje Kaffer), 29 August 1822, (C.J.816, p.542-557)  
The accused, who were both approximately 25 years of age, were found guilty of vagabondising, repeated housebreaking, and theft.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.
36. Fiscal v The Slave, Manuel from Mocambique, 29 August 1822, (C.J.816, p.558-574)  
The accused, who was approximately 25 years of age, was found guilty of vagabondising, theft, and wounding.  
\* The accused had a previous conviction for theft dated 15 January 1822.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
37. Landdrost of Stellenbosch v The Slave, Adam of the Cape, 29 August 1822, (C.J.816, p.575-588)  
The accused, who was approximately 60 years of age, was found guilty of vagabondising, breaking open a chest, and theft.  
Sentenced to be severely scourged and then returned to his master.
38. Landdrost of Stellenbosch v The Hottentot, Willem Cornelis, 29 August 1822, (C.J.816, p.589-605)

The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

39. Fiscal v 1) The Slave, Isaac; 2) The Slave, Lendor & 3) The Free Black, Dolly, 7 September 1822, (C.J.816, p.606-630)

The case was heard by the Court of Commissioners.

The first accused, who was approximately 24 years of age, and the second accused, who was approximately 30, were found guilty of housebreaking and theft. The third accused, who was approximately 28 years of age, was found guilty of theft.

The accused were sentenced to be severely scourged. Thereafter the first and second accused to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With the first and second accused to be confined in irons for 3 years and to labour with their respective masters.*

40. Fiscal v John Burke, 10 September 1822, (C.J.816, p.678-698)

The case was heard by the Court of Commissioners.

The accused, who was 29 years of age and was born in England, was found guilty of resisting and wounding a police officer. The offence was aggravated by the fact that the accused had absented himself from guard duty.

Sentenced to be confined in irons and to labour on the public works at Robben Island for 3 years.

41. Fiscal v The Slave, Adonis of the Cape, 12 September 1822, (C.J.816, p.631-677)

The accused, who was approximately 28 years of age, was found guilty of vagabondising and theft.

\* The accused had a previous conviction for a similar offence dated 26 June 1822.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

42. Landdrost of The Cape District v The Slave, Willem of the Cape, 12 September 1822, (C.J.817, p.365-378)

The accused, who was approximately 46 years of age, was found guilty of the murder of the female slave Spacie.

Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *The accused was pardoned on condition that he served 1 year in confinement, to be calculated from the date of conviction.*

43. Landdrost of Stellenbosch v Johan William Ludwig Gebhardt, 21 September 1822, (C.J.816, p.699-735)

The accused, who was 21 years of age and was born in England, was found guilty of the murder of a slave.

Sentenced to be hanged by the neck until dead.

\* Court of Criminal Appeals : *On 25 September 1822 the accused lodged an appeal against the conviction and sentence with the*

*Court of Criminal Appeals. On 22 November 1822 the Court dismissed the appeal. (G.H.47/2/23, p.1-468; G.H.47/1/1, p.128 et seq.)*

44. Landdrost of Uitenhage v The Bastard Hottentot, Willem Nelson, 4 October 1822, (C.J.816, p.809-818)  
The case was heard by the Circuit Court at Uitenhage.  
The accused was found guilty of the rape of the slave Clarissa who was not yet 8 years old.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 7 years.
45. Landdrost of Albany v The Hottentots : 1) Klaas Appolos; 2) Klaas Baardman & 3) Vigilant Platje, 11 October 1822, (C.J.816, p.843-854)  
The case was heard by the Circuit Court at Albany.  
The accused were found guilty of breaking out of prison, vagabondising, and repeated theft.  
\* The three accused had previous convictions.  
The accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works. The first and second accused for 5 years, and the third accused for 2 years.
46. Landdrost of Graaff Reinet v The Bushman, Vrolyk, 22 October 1822, (C.J.816, p.819-831)  
The case was heard by the Circuit Court at Cradock.  
The accused was found guilty of forcibly resisting the Field-Cornet and of shooting poisoned arrows at him and at others.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.
47. Landdrost of Graaff Reinet v The Bushman, Atja, 22 October 1822, (C.J.816, p.832-842)  
The case was heard by the Circuit Court at Cradock.  
The accused was found guilty of being an accomplice to a housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.
48. Landdrost of Graaff Reinet v The Hottentots, Ruyter & Jager, 28 November 1822, (C.J.816, p.770-784)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused were found guilty of desertion, vagabondising, and repeated theft.  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.
49. Landdrost of Graaff Reinet v Jan van de Graaff & The Female Hottentot, Flora, 29 October 1822, (C.J.816, p.736-755)  
The case was heard by the Circuit Court at Graaff Reinet.  
The first accused, who was born in Zeeland, was found guilty of housebreaking and theft. The second accused was found guilty of being an accomplice.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the punishment awarded to the second accused.*

50. Landdrost of Graaff Reinet v The Hottentots, Vigilant & Fredrik, 29 October 1822, (C.J.816, p.785-796)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of desertion, vagabondising, and the theft of sheep. (Stock Theft)

\* The first accused had two previous convictions dated 19 December 1818 and 11 November 1820.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 5 years at Robben Island, and the second accused for 2 years at the Drostdy.

51. Landdrost of Graaff Reinet v The Hottentots, Dirk Jantje & Africander, 30 October 1822, (C.J.816, p.756-769)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of desertion, vagabondising, theft of cattle, and forcibly detaining a female Hottentot.

\* The first accused had a previous conviction dated 24 October 1816, and the second accused had a previous conviction dated 6 January 1819.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.

52. Landdrost of Graaff Reinet v The Bushmen, Couracie & Ruyter, 30 October 1822, (C.J.816, p.797-808)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of vagabondising and wounding the Hottentot Louis.

\* The accused had previous convictions for vagabondising and stock theft dated 12 December 1820.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 10 years.

53. Secretary of The Cape District v The Hottentot, Thys, 5 November 1822, (C.J.816, p.900-903)

The case was heard by the Board of Landdrost and Heemraden.

The accused, a Black Constable, who was approximately 22 years of age, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

\* Fiat Execution : *With the punishment commuted to a flogging in prison.*

54. Secretary of The Cape District v The Hottentot, Coert Armoed, 12 November 1822, (C.J.816, p.884-887)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

55. Landdrost of Graaff Reinet v The Bushman, Gezwind, 21 November 1822, (C.J.816, p.855-868)

The accused, who was approximately 16 years of age, was found guilty of murder.

Sentenced to be hanged by the neck until dead.

56. Landdrost of Stellenbosch v The Hottentot, Dienaar de Vries, 22 November 1822, (C.J.816, p.869-883)

The accused, who was approximately 25 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

57. Landdrost of George v The Prize Negro, Anthony, 22 November 1822, (C.J.816, p.888-899)

The accused, who was approximately 23 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and then returned to his master.

58. Landdrost of Swellendam v The Hottentot, Witbooy Hans & The Slave, Africa of the Cape, 22 November 1822, (C.J.816, p.904-927)

The first accused, who was approximately 45 years of age, and the second accused, who was approximately 25, were found guilty of desertion, vagabondising, repeated housebreaking and theft.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 10 years.

59. Landdrost of Swellendam v The Hottentots : 1) October; 2) Hendrik Buurman; 3) Karel Miggels; 4) Stoffel Smit & 5) Louis Miggels, 23 November 1822, (C.J.816, p.930-948)

The first accused, who was approximately 25 years of age, the second accused, who was approximately 35, the third accused, who was approximately 30, the fourth accused, who was approximately 18, and the fifth accused, who was approximately 20, were found guilty of breaking out of prison, housebreaking, and repeated theft. The first accused, who was a Black Constable, allowed the others to escape.

The accused were sentenced to be severely scourged and branded. Thereafter the five accused to be confined in irons and to labour on the public works. The first accused for 7 years, the second accused for 5 years, the third accused for 4 years, and the fourth and fifth accused for 3 years.

60. Government Resident of Simonstown v The Hottentots, Willem & Saturday, 2 December 1822, (C.J.816, p.991-1009)

The case was heard by the Court of Commissioners.

The first accused, who was approximately 17 years of age, and the

second accused, who was approximately 24, were found guilty of theft.

\* The second accused had a previous conviction for which he had been sentenced to death, dated 12 June 1820. The sentence was commuted to confinement in irons for 5 years.

The accused were sentenced to be severely scourged. Thereafter the second accused to be confined in irons and to labour on the public works for the term of his former sentence.

61. Landdrost of Graaff Reinet v Louis Daniel Nicolaas Smit, 5 December 1822, (C.J.816, p.949-990)

The accused, who was 26 years of age and was born in the colony, was found guilty of the murder of a Hottentot.

Sentenced to be hanged by the neck until dead.

62. Landdrost of Worcester v The Female Hottentot, Rachel, 5 December 1822, (C.J.816, p.1025-1046)

The accused, who was approximately 16 years of age, was found guilty of arson.

Sentenced to be tied to a stake and strangled to death.

\* Fiat Execution : *With remission of the sentence. The accused to be delivered to the Colonial Chaplain in order that she may be brought up in his school established for the instruction of Government slaves.*

63. Fiscal v Michael O'Connor, 10 December 1822, (C.J.816, p.1082-1101)

The case was heard by the Court of Commissioners.

The accused, who 16 years of age and was born in England, was found guilty of forgery.

Sentenced to be banished from the colony for 3 years and to be confined to labour on the public works at Robben Island pending transportation.

64. Fiscal v Johan George Von Metz, 11 December 1822, (C.J.816, p.1102-1125)

The accused, who was 24 years of age and was born in Amsterdam, was found guilty of passing a forged fifty rixdollar note.

Sentenced to be transported to New South Wales for 14 years.

\* Fiat Execution : *With the punishment commuted to banishment from the colony for 14 years.*

65. Fiscal v The Slave, Jonas of the Cape, 13 December 1822, (C.J.816, p.1010-1024)

The case was heard by the Court of Commissioners.

The accused, who was approximately 29 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons for 1 year and to labour with his master.

\* Fiat Execution : *With the the punishment commuted to a flogging in prison.*



66. Landdrost of Worcester v The Hottentot, Stoffel (Alias Arend), 19 December 1822, (C.J.816, p.1047-1061)  
The accused, who was approximately 30 years of age, was found guilty of desertion and repeated stock theft.  
\* The accused had two previous convictions for similar offences dated 15 March 1821 and 5 September 1821.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.
67. Landdrost of George v The Hottentot, Klaas Platje, 19 December 1822, (C.J.816, p.1062-1081)  
The accused, who was approximately 20 years of age, was found guilty of forcibly carrying off and committing rape on a girl of six, who died as a result of the violence. (Rape and Murder)  
Sentenced to be hanged by the neck until dead.

### 1823

1. Secretary of The Albany District v The Hottentot, Gerrit April, 6 January 1823, (C.J.817, p.1-7)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
2. Secretary of The Albany District v The Hottentot, Gerrit April, 6 January 1823, (C.J.817, p.8-14)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused was found guilty of repeated theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 30 months.  
\* Fiat Execution : *With the sentence commuted to a flogging in prison.*
3. Landdrost of Stellenbosch v The Slave, Patientie (Alias Present) from Mocambique, 6 January 1823, (C.J.817, p.27-41)  
The accused, who was approximately 40 years of age, was found guilty of desertion housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
4. Fiscal v James Donaldson, 13 January 1823, (C.J. 817, p.42-58)  
The case was heard by the Court of Commissioners.  
The accused, who was 34 years of age and was born in Scotland, was found guilty of wounding with a gun.  
Sentenced to be transported to New South Wales for 7 years.
5. Fiscal v The Slave, Pedro, 22 January 1823, (C.J.817, p.59-76)  
The case was heard by the Court of Commissioners.  
The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons for 3 years and to labour with his master.

6. Fiscal v The Free Black, January of the Cape, 30 January 1823, (C.J.817, p.15-26)

The accused, who was approximately 49 years of age, was found guilty of theft.

\* The accused had two previous convictions for similar offences. Sentenced to be transported to New South Wales for life.

\* Fiat Execution : *With the punishment commuted to confinement in irons and to labour on the public works for 5 years.*

7. Fiscal v The Slave, Africa of the Cape & The Free Black, Camies, 11 February 1823, (C.J.817, p.105-121)

The first accused, who was approximately 23 years of age, was found guilty of desertion, vagabondising, housebreaking, and theft. The second accused, who was approximately 24 years of age, was found guilty of receiving a stolen blanket.

\* The first accused had a previous conviction for theft dated 30 March 1822.

The first accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons for 6 years and to labour with his master. The second accused was sentenced to be banished from Cape Town and the Cape District for 5 years.

8. Landdrost of Stellenbosch v The Slaves : 1) Thomas of the Cape; 2) Thomas of the Cape; 3) Jacob of the Cape; 4) The Hottentot, Africa & 5) The Female Slave, Pamela of the Cape, 11 February 1823, (C.J.817, p.122-137)

The first accused, who was approximately 25 years of age, the second accused, who was approximately 20, the third accused, who was approximately 22, the fourth accused, who was approximately 18, and the fifth accused, who was approximately 30, were found guilty of desertion, vagabondising, repeated housebreaking, and theft.

The accused were sentenced to be severely scourged. The first four accused to be branded. Thereafter the first four accused to be confined in irons. The first, second, and third accused for 5 years and to labour with their respective masters. The fourth accused for 4 years and to labour on the public works. The fifth accused to be returned to her master.

\* Fiat Execution : *With remission of the punishment awarded to the fifth accused.*

9. Fiscal v The Slaves, Isaac of the Cape & Abdul of the Cape, 11 February 1823, (C.J.817, p.172-187)

The first accused, who was approximately 24 years of age, and the second accused, who was approximately 27, were found guilty of desertion, vagabondising, housebreaking and repeated theft.

\* The first accused had a previous conviction for housebreaking and theft.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour with their masters. The first accused for 6 years, and the second accused for 3 years.

10. Landdrost of Stellenbosch v The Slave, Fredrik of the Cape, 13 February 1823, (C.J.817, p.77-92)  
The accused, who was employed as one of the Black Constables, was found guilty of fraud and theft.  
\* The accused had a number of previous convictions for similar offences, the last of which was on 1 March 1821.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.
11. Landdrost of Stellenbosch v The Free Black, Hendrik Blank, 13 February 1823, (C.J.817, p.93-104)  
The accused, who was 30 years of age and was born in Saint Domingo, was found guilty of repeated housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at Robben Island for 5 years.  
\* Fiat Execution : *With the accused to be confined in irons and to labour on the public works at the Drostdy instead of at Robben Island.*
12. Landdrost of Worcester v The Hottentot Convict, Andries, 13 February 1823, (C.J.817, p.138-154)  
The accused, who was approximately 35 years of age, was found guilty of desertion, vagabondising, housebreaking, and repeated theft.  
\* The accused had two previous convictions for similar offences dated 23 September 1819 and 10 September 1821.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.
13. Landdrost of Worcester v The Hottentots, Piet Mey & Willem Bantam, 13 February 1823, (C.J.817, p.155-171)  
The first accused, who was approximately 21 years of age, and the second accused, who was approximately 25, were found guilty of desertion, vagabondising, and repeated theft of cattle. (Stock Theft) The first accused was also found guilty of violence.  
The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 4 years, and the second accused for 3 years.
14. Fiscal v The Prize Negro, Villoo (Alias Welloe), 11 March 1823, (C.J.817, p.188-209)  
The case was heard by the Court of Commissioners.  
The accused, who was 30 years of age and was born in Madagascar, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
15. Fiscal v The Free Black, Benjamin from Mocambique, 25 April 1823, (C.J.817, p.270-284)

The case was heard by the Court of Commissioners.

The accused, who was approximately 35 years of age, was found guilty of grossly maltreating and wounding his concubine. The accused was also found guilty of ill-using the female Hottentot Caba.

Sentenced to be confined in irons and to labour on the public works for 7 years.

16. Fiscal v The Slave, Jacob of the Cape, 30 April 1823, (C.J.817, p.210-223 & p.228)

The accused, who was approximately 29 years of age, was found guilty of fraud and theft.

\* The accused had two previous convictions for similar offences dated 5 March 1818 and 20 July 1820.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

17. Landdrost of George v The Slave, Sila of the Cape, 30 April 1823, (C.J.817, p.224-227 & 229-256)

The accused, who was approximately 30 years of age, was found guilty of the murder of her child. (Infanticide)

Sentenced to be tied to a stake and strangled to death.

\* Fiat Execution : *Subsequent to her condemnation the accused was found to be pregnant. An application was made to the Governor and she was reprieved. The accused gave birth to a child in November 1823, which subsequently died. The case was then over-looked and the accused remained in prison. On 25 October 1826 the Governor brought the matter to the attention of the Secretary for Colonies. He drew attention to the fact that the accused had given birth to another child while in prison, and recommended that she be pardoned on the condition that she be confined to labour on the public works for 20 years from the date of her conviction. The matter was fully investigated, and on 28 November 1827 the Secretary for Colonies advised the Governor that the King had seen fit to pardon the accused on the condition that she be confined to hard labour for 14 years, to be calculated from 9 November 1827. (The correspondence concerning the case appears in the Records of the Cape Colony; Vol. 28, p.268-269; Vol. 30, p.16-17; Vol.32, p.164-170; & Vol. 34, p.158-159)*

18. Landdrost of Worcester v The Slave, Absalon of the Cape, 30 April 1823, (C.J.817, p.257-269)

The accused, an escaped convict, who was approximately 27 years of age, was found guilty of desertion, vagabondising in a gang, and the theft of cattle. (Stock Theft)

\* The accused had two previous convictions dated 2 December 1819 and 2 September 1820.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

19. Fiscal v Cornelis Johannes Langeveld, 14 May 1823, (C.J.817, p.285-316)  
The accused, who was 29 years of age and was born in the colony, was found guilty of passing falsified paper money.  
Sentenced to be banished from the colony for 7 years.  
\* Fiat Execution : *With remission of the punishment.*
20. Fiscal v Richard Turner, 23 May 1823, (C.J.817, p.317-331)  
The case was heard by the Court of Commissioners.  
The accused, who was between 60 and 70 years of age and was born in England, was found guilty of theft.  
\* The accused had a previous conviction for petty theft.  
Sentenced to be banished from the colony for 5 years.
21. Fiscal v The Hottentot, Hendrik Jacobus Linde, 7 June 1823, (C.J.817, p.379-395)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 43 years of age, was found guilty of theft.  
\* The accused had a previous conviction for wounding dated 27 May 1820.  
Sentenced to be severely scourged.
22. Landdrost of Graaff Reinet v The Female Slave, Rebecca, 9 June 1823, (G.H.47/2/26, p.210-360; G.H.47/1/1, p.139 et seq.)  
The accused was found guilty of the murder of her child. (Infanticide)  
Sentenced to be tied to a stake and strangled to death.  
\* Court of Criminal Appeals : *On 21 July 1823 the accused lodged an appeal against her conviction and sentence with the Court of Criminal Appeals. On 20 April 1824 the Court upheld the appeal on the basis that the appellant was of unsound mind, both before and at the time when she committed the crime. The Court ordered that the accused be delivered to the proper authorities and to be provided for accordingly.*
23. Fiscal v Andrew Watson, 10 June 1823, (C.J.817, p.332-346)  
The case was heard by the Court of Commissioners.  
The accused, who was 31 years of age and was born in Scotland, was found guilty of theft and malversation in the discharge of his duty as a postman.  
Sentenced to be transported to New South Wales for 3 years.
24. Fiscal v The Free Black, Camies, 30 June 1823, (C.J.817, p.347-364)  
The accused, who was 25 years of age and was born in the colony, was found guilty of violating the banishment to which he was condemned by sentence of the court dated 11 February 1823.  
Sentenced to be confined in irons and to labour on the public works for 2 years. After serving the sentence, the accused to comply with the term of banishment laid down in the former sentence.

25. Fiscal v Christian Philip Zinn, 3 July 1823, (C.J.817, p.396-418)  
The accused, who was 52 years of age and was born in Saxony, was found guilty of mala fide, and under a false statement of the time of her birth, registering the child Martje at the Office for the Registration of Slaves; and by so doing of wilfully and knowingly endeavouring to deprive her of her freedom to which she had the fullest claim.  
Sentenced to be confined on Robben Island for 1 year.
26. Landdrost of Stellenbosch v The Slaves : 1) Abraham of the Cape; 2) Francois from Mocambique; 3) Dappat from Batavia; 4) Klaas of the Cape; 5) The Female Slave, Sylvia of the Cape; 6) The Female Slave, Eva from Mocambique; 7) Philander of the Cape; 8) Manuel from Mocambique & 9) Jacob of the Cape, 7 July 1823, (C.J.817, p.419-437)  
The first accused, who was approximately 46 years of age, the second accused, who was approximately 30, the third accused, who was approximately 45, the fourth accused, who was approximately 34, the fifth accused, who was approximately 35, the sixth accused, who was approximately 30, the seventh accused, who was approximately 30, the eighth accused, who was approximately 32, and the ninth accused, who was approximately 10, were found guilty of desertion, vagabondising in a gang, and theft of cattle. (Stock Theft)  
\* The first six accused had previous convictions for similar offences.  
The first, second, third, fourth, fifth, sixth, and seventh accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first four accused to be confined in irons and to labour on the public works. The first and second accused for 10 years, the third accused for 5 years, and the fourth accused for 3 years. The eighth accused was sentenced to be severely flogged in prison and, together with the fifth, sixth, and seventh accused, to be returned to their masters. The confinement undergone by the ninth accused was considered to be an adequate punishment.  
\* Fiat Execution : *With the first four accused to be confined in irons for the periods specified and to labour with their respective masters instead of on the public works. The masters not to remove the irons without first obtaining an order from the Court of Justice.*
27. Landdrost of Stellenbosch v The Slave, Africa of the Cape, 14 August 1823, (C.J.817, p.498-512)  
The accused, who was approximately 25 years of age, was found guilty of a violent assault on his master, 'for which the Laws of the Colony prescribe the punishment of death'.  
Sentenced to be hanged by the neck until dead.  
\* Fiat Execution : *With the punishment commuted to confinement in irons for 3 years and to labour with his master.*
28. Fiscal v Joseph Burns, 15 August 1823, (C.J.817, p.530-551)  
The case was heard by the Court of Commissioners.  
The accused, who was 22 years of age and was born in England, was

found guilty of an attempt to rape a child aged seven. Sentenced to be transported to New South Wales. Pending transportation, the accused to be confined and to labour on the public works.

29. Fiscal v Johannes Philippus Veft, 22 August 1823, (C.J.817, p.455-484)

The case was heard by the Court of Commissioners.

The accused, who was 26 years of age and was born in the colony, was found guilty of theft, attended with aggravating circumstances.

Sentenced to be banished from the colony for 14 years.

30. Deputy Landdrost of Clanwilliam v The Prize Negro, Jack, 25 August 1823, (C.J.817, p.513-529)

The case was heard by the Circuit Court at Clanwilliam.

The accused, who was approximately 25 years of age, was found guilty of gross public violence.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Sub-Drostdy for 3 years.

31. Landdrost of The Cape District v The Slaves, Africa of the Cape & Zeeland of the Cape, 28 August 1823, (C.J.817, p.485-497)

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 50, were found guilty of vagabondising in a gang, housebreaking, and repeated thefts.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years.

\* Fiat execution : *With remission of the scourging and branding and condemning the accused to labour in irons with their respective masters for 5 years.*

32. Fiscal v The Hottentot, Willem Moses, 29 August 1823, (C.J.817, p.438-454)

The case was heard by the Court of Commissioners.

The accused, who was approximately 28 years of age, was found guilty of theft.

Sentenced to be severely scourged.

33. Landdrost of Worcester v The Slaves : 1) Laban; 2) April; 3) Arend; 4) Fredrik; 5) The Female Hottentot, Lea & 6) The Female Hottentot, Fytje, 5 September 1823, (C.J.817, p.564-594)

The case was heard by the Circuit Court at Worcester.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 25, the third accused, who was approximately 37, the fourth accused, who was approximately 7, the fifth accused, who was approximately 24, and the sixth accused, who was approximately 12, were found guilty of repeated housebreaking and theft.

The second accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the first, third, and fifth accused, to be severely scourged.

The first and second accused to be branded and then to be confined in irons and to labour on the public works. The first accused for 5 years, and the second accused for 14 years. The sixth accused was sentenced to be severely flogged in prison by the Black Constables. No punishment was prescribed for the fourth accused on account of his youth.

\* Fiat Execution : *With remission of the corporal punishment prescribed for the fifth and sixth accused. Both to be confined in prison on a diet of bread and water for 8 days.*

34. Fiscal v Richard Francis, 17 September 1823, (C.J.817, p.595-617)

The case was heard by the Court of Commissioners.

The accused, who was 36 years of age and was born in Saint Helena, was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be banished from the colony for 7 years.

\* Fiat Execution : *With remission of the corporal punishment.*

35. Landdrost of Swellendam v The Hottentot, Adam Rooy, 19 September 1823, (C.J.817, p.552-563)

The case was heard by the Circuit Court at Swellendam.

The accused was found guilty of the theft of a horse. (Stock Theft)

\* The accused had a previous conviction for a similar offence dated 5 June 1819.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

36. Landdrost of The Cape District v The Hottentot, Frederik Africander, 22 September 1823, (C.J.817, p.618-649)

The accused, who was approximately 30 years of age, was found guilty of the most cruel ill-treatment of his concubine, which was the cause of her death. (Murder)

Sentenced to be hanged by the neck until dead.

\* Court of Criminal Appeals : *On 26 September 1823 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 20 April 1824 the appeal was dismissed.*

37. Secretary of The Cape District v Jan Van der Velde & Gabriel Van der Velde, 2 October 1823, (C.J.817, p.669-675)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was 23 years of age and was born in the colony, and the second accused, who was 18 years of age and was born in the colony, were found guilty of the theft of cattle. (Stock Theft)

The first accused was sentenced to be transported to New South Wales for 5 years, and the second accused was sentenced to labour on Robben Island for 2 years.

\* Fiat Execution : *With the transportation imposed on the first accused to be commuted to labour on Robben Island for the same period. The second accused's punishment to be remitted and the accused to be sent back to his father.*



38. Landdrost of Stellenbosch v The Slave, Lendor from Mocambique, 23 October 1823, (C.J.817, p.650-668)  
The accused, who was approximately 35 years of age, was found guilty of wounding his master.  
Sentenced to be hanged by the neck until dead.
39. Landdrost of Worcester v The Caffres : 1) Bootsman; 2) Goliath; 3) Boesak; 4) Frans; 5) Joris; 6) The Female Caffre, Fytje & 7) The Female Caffre, Mietje, 23 October 1823, (C.J.817, p.676-706)  
The first accused, who was approximately 50 years of age, the second accused, who was approximately 45, the third accused, who was approximately 19, the fourth accused, who was approximately 12, the fifth accused, who was approximately 14, the sixth accused, who was approximately 50, and the seventh accused, who was approximately 35, were found guilty of desertion, vagabondising in an armed gang, theft of sheep, violence with arms, and especially of aiding and abetting in the commission of violence on the deceased wife of Veldman, after she had been wounded with an assegai by the first accused.  
The first accused was sentenced to be hanged by the neck until dead. The second and third accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fourth, fifth, sixth, and seventh accused, to be severely scourged. The second and third accused to be branded. Thereafter the accused to be confined in irons and to labour on the public works. The second and third accused for life at Robben Island, the fourth and fifth accused for 5 years at Robben Island, and the sixth and seventh accused for 5 years at the Drostdy.  
\* Court of Criminal Appeals : On 27 July 1824 the accused lodged an appeal against their conviction and sentences with the Court of Criminal Appeals. On 30 September 1824 the Court upheld the appeal and reversed the sentence of the Court of Justice.
40. Fiscal v Petrus Stephanus Buissinne, 20 November 1823, (C.J.817, p.738-748)  
The accused, a former Judge and Receiver of Land Revenue, who was 45 years of age and was born in the colony, was found guilty of embezzlement of public money, aggravated by perjury.  
The accused was declared to be 'unworthy and incapable of ever serving in any office under His Majesty's Government'. He was further sentenced to be banished from the colony for 7 years. The sentence was only to take effect after his estate had been liquidated by the Sequestrator. In the meantime he was to remain in 'close confinement'.  
\* Fiat Execution : With the exception of that part of the sentence which pronounced the accused to be guilty of perjury.
41. Landdrost of Graaff Reinet v The Hottentot, Lambert & The Female Hottentot, Kaatje, 20 November 1823, (C.J.817, p.765-786)  
The case was heard by the Circuit Court at Graaff Reinet.  
The first accused was found guilty of desertion, vagabondising, and theft of sheep. (Stock Theft) The second accused was found guilty of being an accomplice.

\* The first accused had two previous convictions for similar offences dated 17 January 1818 and 23 March 1822. The second accused had a previous conviction for a similar offence dated 23 March 1822.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 10 years.

\* Fiat Execution : *With remission of the punishment awarded to the second accused.*

42. Landdrost of Graaff Reinet v The Hottentot, Kieviet & The Female Hottentot, Doortje, 21 November 1823, (C.J.817, p.707-719)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of desertion, vagabondising, and theft of sheep.

\* The first accused had a previous conviction dated 30 March 1815, and the second accused had a previous conviction dated 12 February 1820.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the punishment awarded to the second accused.*

43. Landdrost of Graaff Reinet v The Bushmen, Platje & Andries, 21 November 1823, (C.J.817, p.720-737)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of desertion, vagabondising, housebreaking, and stock theft.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works at the Drostdy for 3 years.

44. Landdrost of Graaff Reinet v The Hottentot, Piet & The Female Hottentot, Christina, 21 November 1823, (C.J.817, p.749-764)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of housebreaking and theft.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 2 years. The second accused was sentenced to be severely flogged in prison by the Black Constables.

\* Fiat Execution : *With remission of the punishment awarded to the second accused.*

45. Landdrost of Graaff Reinet v The Bushmen : 1) Jan the First; 2) Jan the Second; 3) Slaay & 4) Jantje, 21 November 1823, (C.J.817, p.787-807)

The case was heard by the Circuit Court at Graaff Reinet.

The first and second accused were found guilty of assaulting, robbing, and shooting arrows at travellers. The first and second accused were also found guilty of housebreaking and theft. The third and fourth accused were found guilty of being accomplices to the theft.

The accused were sentenced to be severely scourged. The first and

second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works at the Drostdy for 8 years.

46. Landdrost of Graaff Reinet v The Hottentot Convicts, Ernst & Michael Jager, 21 November 1823, (C.J.817, p.808-829)

The case was heard by the Circuit Court at Graaff Reinet.

The accused were found guilty of breaking out of prison, vagabondising, and repeated theft.

\* The first accused had two previous convictions dated 9 January 1819 and 10 February 1821, and the second accused had previous convictions dated 17 January 1818 and 23 March 1822.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the the public works for 8 years.

47. Landdrost of Graaff Reinet v The Hottentot, Gerrit, 21 November 1823, (C.J.817, p.830-850)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 20 years of age, was found guilty of desertion, housebreaking, and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 5 years.

48. Landdrost of Graaff Reinet v Johannes Jacobus Le Roux, 4 December 1823, (C.J.817, p.851-878)

The case was heard by the Circuit Court at Beaufort.

The accused, who was 21 years of age and was born in the colony, was found guilty of uttering forged paper money.

Sentenced to be transported to New South Wales for 7 years.

49. Secretary of The Cape District v The Slaves : 1) Maart of the Cape; 2) Jaghier from Mocambique & 3) The Female Slave, Rosina from Mocambique, 21 December 1823, (C.J.817, p.925-930)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 25, were found guilty of the theft of cattle. The third accused, who was approximately 28 years of age, was found guilty of being an accomplice. (Stock Theft)

The first and second accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour with their masters. The first accused for 5 years, and the second accused for 2 years. The third accused was sentenced to be severely flogged in prison and then returned to her master.

\* Fiat Execution : With the third accused's punishment remitted to confinement in prison for 7 days on a diet of bread and water.

50. Landdrost of Albany v The Female Slave, Rachel of the Cape & The Female Hottentot, Deel, 22 December 1823, (C.J.817, p.879-905)

The accused, who were both approximately 20 years of age, were found guilty of the murder of the slave girl Tamar.

The accused were sentenced to be tied to a stake and strangled to death.

51. Landdrost of Albany v The Hottentot, Vroylyk Bantjes (Alias Hamel), 22 December 1823, (C.J.817, p.906-924)

The accused, who was approximately 27 years of age, was found guilty of the murder of a child, who was only a few months old. Sentenced to be hanged by the neck until dead.

52. Fiscal v The Slaves : 1) Thomas of the Cape; 2) Afrika of the Cape; 3) Samuel of the Cape; 4) Isaak of the Cape; 5) Gerrit of the Cape; 6) September of the Cape; 7) Japie of the Cape; 8) The Free Black, Rammie of the Cape; 9) Maart from Batavia; 10) Jan, who was born at sea; 11) Seliem of the Cape; 12) Adonis of the Cape; 13) Willem of the Cape; 14) The Free Black, Abraham Schreuder; 15) Anthonie of the Cape & 16) The Female Slave, Rosina from Batavia, 22 December 1823, (C.J.818, p.134-163)

The first accused, who was approximately 25 years of age, the second accused, who was approximately 30, the third accused, who was approximately 25, the fourth accused, who was approximately 35, the fifth accused, who was approximately 25, the sixth accused, who was approximately 30, the seventh accused, who was approximately 25, the eighth accused, who was approximately 30, the ninth accused, who was approximately 45, the tenth accused, who was approximately 50, the eleventh accused, who was approximately 24, the twelfth accused, who was approximately 26, the thirteenth accused, who was approximately 35, the fourteenth accused, who was approximately 34, and the fifteenth accused, who was approximately 25, were found guilty of a conspiracy to commit housebreaking and theft, accompanied with violence. The first, second, fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth accused were found guilty of participating to a greater or lessor extent in the commission of repeated acts of housebreaking and theft, accompanied with violence. The first, second, and third accused were also found guilty of murder. The sixteenth accused, who was approximately 43 years of age, was found guilty of harbouring the first and second accused and of having knowledge of the crimes committed by them.

The first second, third, and tenth accused were sentenced to be hanged by the neck until dead. Thereupon the heads of the first, second, and third accused to be severed from their bodies, secured to a post, and displayed near the public road at Salt River. To remain there until consumed by the elements and the birds of prey. The fourth, fifth, sixth, seventh, eighth, ninth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth accused were sentenced to be severely scourged, and, with the exception of the sixteenth accused, to be branded and confined in irons. The seventh, eighth, and ninth accused to labour on the public works at Robben Island for 10 years. The fourth, fifth, sixth, eleventh, twelfth, thirteenth, fourteenth and fifteenth accused to labour on the public works at Robben Island for 5 years. The sixteenth accused to be returned to her master.

\* Court of Criminal Appeals : On 25 December 1823 the first three accused lodged an appeal against their conviction and sentences with the Court of Criminal Appeals. The fifteenth accused lodged

an appeal on 27 December 1823. On 20 April 1824 the Court dismissed the appeals. (G.H.47/2/25, p.1-722; G.H.47/1/1, p.149 et seq.)

\* Fiat Execution : With the following exceptions :

The death sentence imposed on the tenth accused to be commuted to confinement in irons and to labour on the public works at Robben Island for life.

The corporal punishment imposed on the fourteenth accused to be remitted.

The corporal punishment and branding imposed on the fifteenth accused to be remitted.

The corporal punishment imposed on the sixteenth accused to be commuted to confinement in prison for 1 month on a diet of bread and water.

After receiving corporal punishment, the fourth, fifth, sixth, seventh, ninth, and twelfth accused, together with the fifteenth accused, to be confined in irons for the periods mentioned in the sentence and to work and labour with any person in Swellendam, or other District, under the strict prohibition that they are not to enter the Cape and Stellenbosch Districts on pain of confinement on Robben Island.

#### 1824

1. Fiscal v 1) The Slaves : 1) Charles from Mocambique; 2) Asia from Mocambique; 3) The Female Free Black, Spasie & 4) The Female Slave, Carolina of the Cape; 7 January 1824, (C.J.818, p.2-20)

The case was heard by the Court of Commissioners.

The first accused, who was approximately 30 years of age, was found guilty of housebreaking and theft. The second accused, who was approximately 26 years of age, the third accused, who was approximately 35, and the fourth accused, who was approximately 28, were found guilty of receiving and concealing the stolen goods.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons for 1 year and to labour with his master. The second accused was sentenced to be severely flogged in prison by the Black Constables. The third and fourth accused were sentenced to be confined in prison for 1 month.

2. Landdrost of Uitenhage v Robert Prosser, 19 January 1824, (G.H.47/2/27, p.170-519; G.H.49/26; & G.H.47/1/1, p.152 et seq.)

The accused was found guilty of the murder of a boy aged fourteen. Sentenced to be hanged by the neck until dead.

\* Court of Criminal Appeals : On 23 January 1824 the accused lodged an appeal against his conviction and sentence with the Court of Criminal Appeals. On 20 April 1824 the Court upheld the appeal and ordered the immediate discharge of the accused.

3. Fiscal v 1) The Free Black, Abdul Galie; The Slaves : 2) Abraham of the Cape; 3) Christian of the Cape; 4) Lendor of the Cape; 5) August from Batavia; 6) David of the Cape; 7) Moses of the Cape; 8) Abraham of the Cape; 9) Lafleur from Mocambique; 10) January

from Mocambique & 11) Achilles of the Cape, 9 February 1824, (C.J.818, p.21-88)

The first accused, who was approximately 30 years of age, the second accused, who was approximately 30, the third accused, who was approximately 34, the fourth accused, who was approximately 32, the fifth accused, who was approximately 40, the sixth accused, who was approximately 40, the seventh accused, who was approximately 23, and the eighth accused, who was approximately 30, were found guilty of combining in a gang with the intention to commit public crimes and of jointly committing public violence and theft, accompanied with the evil intention of forcibly securing the persons in the house of George Payne. In addition, the second, third, and fourth accused were found guilty of being accomplices to a housebreaking and theft, which was committed by the sixth and seventh accused. The eighth accused was found guilty of associating with a gang of vagabond slaves and of instigating them to commit theft. The ninth accused, who was approximately 20 years of age, was found guilty of being an accomplice to the theft of poultry from a fowl house, which the third accused broke open. The tenth accused, who was approximately 24 years of age, was found guilty of repeated theft. The eleventh accused, who was approximately 18 years of age, was found guilty of having previous knowledge of the intention of the seventh accused to commit, with others, crimes at the house of his master and of having concealed the same. The second, third, fourth, fifth, sixth, ninth, and tenth accused were also found guilty of desertion and vagabondising.

\* The second, third, sixth, and tenth accused had previous convictions for similar offences.

The first ten accused were sentenced to be severely scourged. The first eight accused to be branded. Thereafter the first eight accused to be confined in irons and to labour on the public works at Robben Island. The first, second, third, fourth, sixth, and eighth accused for 10 years, the fifth accused for 4 years, and the seventh accused for 5 years. The tenth accused to be confined in irons for 5 years and to labour with his master. The eleventh accused was sentenced to be severely flogged in prison by the Black Constables and, together with the ninth accused, to be returned to their respective masters.

\* Fiat Execution : *With remission of the punishment awarded to the tenth accused.*

4. Fiscal v The Slave, Madien & The Free Black, Christian, 12 March 1824, (C.J.818, p.110-128)

The first accused, who was approximately 12 years of age, was found guilty of repeated theft. The second accused, who was approximately 45 years of age, was found guilty of receiving stolen money and of appropriating some of it for his own use.

The first accused was sentenced to be severely flogged in prison by the Black Constables. The second accused was sentenced to be confined in irons and to labour on the public works for 12 months.

5. Secretary of The Cape District v The Hottentot January, 17 March 1824, (C.J.818, p.129-133)

The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 35 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at Robben Island for 5 years.

\* Fiat Execution : *With remission of the punishment.*

6. Fiscal v Joachim Petrus Caesars, 25 March 1824, (C.J.818, p.89-109)

The accused, who was 27 years of age and was born in the colony, was found guilty of theft.

\* The accused had a previous conviction for housebreaking and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

7. Secretary of The Cape District v William Jones, 22 April 1824, (C.J.818, p.468-472)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was 25 years of age and was born in England, was found guilty of fraud and theft.

Sentenced to be transported to New South Wales for 3 years.

\* Fiat Execution : *With the punishment commuted to confinement in irons and to labour on the public works at Franschoek for 2 years.*

8. Fiscal v William Edwards, 20 May 1824, (C.J.818, p.252-262)

The accused, a Notary Public, who was 40 years of age and was born in North Wales, was found guilty of libel under the most aggravating circumstances.

Sentenced to be banished to New South Wales for 7 years. The court further declared that the accused was to be incapable of serving His Majesty's Government in any honourable employment.

9. Fiscal v Michael Reilly, 2 June 1824, (C.J.818, p.263-280)

The case was heard by the Court of Commissioners.

The accused, who was 22 years of age and was born in Ireland, was found guilty of an attempted rape on Alice Haynes.

Sentenced to be severely scourged. Thereafter to be banished from the colony for 7 years.

10. Secretary of The Worcester District v The Hottentot, Hendrik Gysman & The Female Hottentot, Anna, 2 August 1824, (C.J.818, p.281-314)

The case was heard by the Board of Landdrost and Heemraden.

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 40, were found guilty of vagabondising. The first accused was also found guilty of the theft of cattle, and the second accused was found guilty of being an accomplice. (Stock Theft)

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons for 1 year and to labour on the

public works at the Drostdy. The second accused was sentenced to be confined in prison for 14 days on a diet of bread and water.

11. Secretary of The Worcester District v The Hottentot, Andries Vigilant, 2 August 1824, (C.J.818, p.315-342)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 20 years of age, was found guilty of vagabondising and theft of cattle.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 6 months.
12. Landdrost of Clanwilliam v The Hottentots, Cupido Lint & Karel Miggels, 9 August 1824, (C.J.818, p.359-382)  
The case was heard by the Circuit Court at Clanwilliam.  
The first accused, who was approximately 22 years of age, and the second accused, who was approximately 33, were found guilty of desertion, vagabondising, housebreaking, and theft.  
\* The first accused had a previous conviction dated 18 December 1820, and the second accused had a previous conviction dated 22 November 1822.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works at Robben Island for 15 years.
13. Landdrost of Stellenbosch v The Slave, Gideon of the Cape, 9 August 1824, (C.J.818, p.383-400)  
The accused, who was approximately 29 years of age, was found guilty of murderously wounding the female slave Philipinna.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at Robben Island for life.  
\* Fiat Execution : *With the punishment commuted to confinement in irons for 20 years and to labour with his master.*
14. Landdrost of Worcester v The Hottentots, Jan Magerman & Willem Magerman, 12 August 1824, (C.J.818, p.343-358)  
The case was heard by the Circuit Court at Worcester.  
The first accused, who was approximately 50 years of age, and the second accused, who was approximately 14, were found guilty of desertion, vagabondising in a gang, and theft of cattle. (Stock Theft)  
The first accused was sentenced to be severely scourged, and the second accused was sentenced to be severely flogged.
15. Landdrost of Worcester v The Hottentot, Klaus Oranje & The Slave, Lodewyk, 17 August 1824, (C.J.818, p.401-417)  
The case was heard by the Circuit Court at Worcester.  
The first accused, who was approximately 40 years of age, and the second accused, who was approximately 30, were found guilty of vagabondising, housebreaking, and theft.  
The accused were sentenced to be severely scourged. Thereafter



both the accused to be confined in irons and to labour on the public works at the Drostdy for 3 years.

16. Landdrost of Graaff Reinet v The Bushmen, Wildschut & Uithaalter, 13 September 1824, (C.J.818, p.418-438)  
The case was heard by the Circuit Court at Cradock.  
The first accused, who was approximately 14 years of age, and the second accused, who was approximately 12, were found guilty of being accomplices to murder and robbery.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works at the Sub-Drostdy. The first accused for 15 years, and the second accused for 12 years.  
\* Fiat Execution : *With the the first accused's punishment commuted to confinement in irons for 10 years and to labour in the Cape or any other District, and the second accused's punishment commuted to confinement in irons for 7 years and to labour in the Cape or any other District.*
17. Landdrost of Graaff Reinet v The Hottentot, Joris, 13 September 1824, (C.J.818, p.439-448)  
The case was heard by the Circuit Court at Cradock.  
The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and then discharged.
18. Landdrost of George v The Caffre, Piet Hendrik, 15 October 1824, (C.J.818, p.449-467)  
The case was heard by the Circuit Court at George.  
The accused, who was approximately 25 years of age, was found guilty of wounding the Lascar Saubden with a stone, which resulted in his death. (Culpable Homicide)  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.  
\* Fiat Execution : *With the punishment commuted to confinement in prison for 3 months, to be calculated from the date of the accused's committal.*
19. Fiscal v John Carnall, 8 November 1824, (C.J.818, p.499-517)  
The accused was found guilty of aiding and assisting the convict William Edwards to escape.  
Sentenced to be transported to New South Wales for 5 years.  
\* Fiat Execution : *With the punishment commuted to banishment from the colony for 5 years, on the condition that the accused departs from the colony within 8 weeks.*
20. Fiscal v Bishop Burnett, 9 November 1824, (C.J.818, p.484-498)  
The accused, who was 36 years of age and was born in England, was found guilty of libel, 'tending as well to injure and undermine the character and judicial dignity of the Members of the Commission of Circuit in 1823'.  
Sentenced to be banished from the colony for 5 years.

21. Secretary of The Cape District v The Hottentot, Klaas Baatjoe, 11 November 1824, (C.J.818, p.532-536)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, one of the Black Constables, who was approximately 34 years of age, was found guilty of theft from a waggon on the highway.  
\* The accused had two previous convictions dated 5 September 1816 and 29 August 1817.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at Robben Island for 7 years.
22. Fiscal v Thomas Mahony, 24 November 1824, (C.J.818, p.518-531)  
The case was heard by the Court of Commissioners.  
The accused, who was 30 years of age and was born in Ireland, was found guilty of aiding and abetting the escape of the convict William Edwards.  
Sentenced to be transported to New South Wales for 3 years.  
\* Fiat Execution : *With the punishment commuted to banishment from the colony for 3 years.*
23. Fiscal v Bartholomeus Oostendorp, 30 November 1824, (C.J.818, p.473-483)  
The case was heard by the Court of Commissioners.  
The accused, who was 31 years of age and was born in the colony, was found guilty of theft.  
\* The accused had a previous conviction for theft.  
Sentenced to be transported to New South Wales for 3 years.  
\* Fiat Execution : *With the punishment commuted to confinement in irons and to labour on the public works for 1 year.*
24. Landdrost of Graaff Reinet v The Bushmen, Danzer & Booy, 2 December 1824, (C.J.818, p.563-581)  
The first accused, who was approximately 25 years of age, and the second accused, who was approximately 24, were found guilty of vagabondising in an armed gang and theft of sheep. (Stock Theft)  
The first accused was also found guilty of being an accomplice to murder. The second accused was found guilty of joining the first accused in order to steal sheep, when he knew that there was an intention to kill.  
The first accused was sentenced to be hanged by the neck until dead. The second accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at Graaff Reinet for 10 years.
25. Landdrost of Graaff Reinet v Adam Gilfillian, 2 December 1824, (C.J.818, p.582-609)  
The accused, who was 24 years of age and was born in Scotland, was found guilty of culpable wounding, aggravated by the knowledge that the deceased (his slave) had a lung disease.  
Sentenced to be confined in the prison at the Sub-Drostdy of Cradock for 12 months, to be calculated from the date of his apprehension.

26. Landdrost of Stellenbosch v Michiel McConwell & Jan Christian Coenraad, 28 December 1824, (C.J.818, p.537-562)

The first accused, who was 60 years of age and was born in Ireland, and the second accused, who was 55 years of age and was born in Berlin, were found guilty of ill-treating the deceased Hottentot Lys.

The accused were sentenced to be confined to labour on Robben Island for 12 months.

1825

1. Fiscal v The Slave, Isaac from Mocambique, 28 January 1825, (C.J.819, p.2-17)

The case was heard by the Court of Commissioners.

The accused, who was approximately 30 years of age, was found guilty of wounding the slave Jacob.

Sentenced to be severely scourged and then returned to his master.

2. Landdrost of Worcester v The Slaves : 1) Richter of the Cape; 2) Gert of the Cape; 3) The Female Slave, Sina of the Cape & 4) The Hottentot, Jas Jantje, 10 February 1825, (C.J.819, p.18-47)

The first accused, who was approximately 23 years of age, the second accused, who was approximately 23, the third accused, who was approximately 18, and the fourth accused, who was approximately 14, were found guilty of deserting in a gang with arms for the purpose of proceeding beyond the boundary of the colony. The accused were also found guilty of the theft of arms and ammunition, clothes, other articles, and six horses. In addition, the first accused was found guilty of opening two different apartments by force. (Housebreaking)

The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first accused to be confined in irons and to labour on the public works at Robben Island for 5 years. The third accused was sentenced to witness the punishment. The fourth accused was sentenced to be severely flogged in prison and then, together with the second and third accused, to be returned to their respective masters.

3. Landdrost of Worcester v The Hottentot Convicts, Piet Mey & Cupido Danzer, 10 February 1825, (C.J.819, p.62-75)

The first accused, who was approximately 23 years of age, and the second accused, who was approximately 26, were found guilty of vagabondising in a gang and theft of cattle. (Stock Theft)

\* The accused had previous convictions for similar offences.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works at Robben Island for 5 years. The sentence to commence after the expiry of their previous sentences.

4. Fiscal v The Prize Negro, Manero, 16 February 1825, (C.J.819, p.48-61)

The case was heard by the Court of Commissioners.

The accused, who was approximately 20 years of age, was found guilty of an attempt to commit rape on a child.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at Robben Island for 3 years.

5. Secretary of the Cape District v The Hottentot, Willem Hartenberg, 21 February 1825, (C.J.819, p.76-80)  
The case was heard by the Board of Landdrost and Heemraden. The accused, who was approximately 35 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
6. Landdrost of The Cape District v The Slave, Avontuur from Mocambique, 28 February 1825, (C.J.819, p.81-100)  
The accused, who was approximately 55 years of age, was found guilty of treacherously wounding his master.  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons for 10 years and to labour with his master.
7. Landdrost of the Cape District v The Slave, Pajang of the Cape, 2 March 1825, (C.J.819, p.101-117)  
The accused, who was approximately 28 years of age, was found guilty of repeatedly wounding his master.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : On 10 March 1825 the accused lodged an appeal against his sentence with the Court of Criminal Appeals. On 16 August 1825 the appeal was dismissed. (G.H.47/2/27, p.1-159; G.H.47/1/1, p.167 et seq.)  
\* Fiat Execution : With the punishment commuted to confinement in irons and to labour on the public works during the term of his natural life. The accused not to be informed until after he has been taken to the gallows with every expectation of being executed.
8. Fiscal v Phillip Barendse, 7 March 1825, (C.J.819, p.118-133)  
The case was heard by the Court of Commissioners.  
The accused, who was 35 years of age and was born in the colony, was found guilty of violence and attempted rape.  
Sentenced to be banished from the colony for 3 years.  
\* Fiat Execution : With the punishment commuted to confinement in the Tronk for 1 month.
9. Fiscal v 1) The Slave, Galant of the Cape; 2) The Slave, Abel of the Cape; 3) The Hottentot, Isaac Rooy; 4) The Hottentot, Isaac Thys; 5) The Hottentot, Hendrik; 6) The Slave, Klaas of the Cape; 7) The Slave, Achilles from Mocambique; 8) The Slave, Ontong from Batavia; 9) The Hottentot, Valentyn & 10) The Hottentot, Vlak, 21 March 1825, (C.J.819, p.134-253)  
The first accused, who was approximately 26 years of age, and the second accused, who was approximately 26, were found guilty of a conspiracy to commit and of actually committing High Treason, murder, and armed violence. The third accused, who was

approximately 14 years of age, the fourth accused, who was approximately 19, the fifth accused, who was approximately 24, the sixth accused, who was approximately 35, the seventh accused, who was approximately 40, the eighth accused, who was approximately 40, the ninth accused, who was approximately 16, and the tenth accused, who approximately 12, were found guilty of being accomplices in the execution of the plan framed by the first and second accused, aggravated by the third accused having assisted in murder, and the fourth accused having taken an active part in acts of violence.

The first, second, and fourth accused were sentenced to be hanged by the neck until dead. The heads of the first and second accused to be struck off and placed on iron spikes affixed to separate poles, erected in the most conspicuous place, and to remain until consumed by the elements and the birds of prey. The third, fifth, and sixth accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the seventh and eighth accused, to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy of Worcester. The third, fifth, and sixth accused for life, and the seventh and eighth accused for 15 years. The ninth and tenth accused were sentenced to witness the execution. Thereafter both the accused to be severely flogged in the prison.

10. Fiscal v John Rowland, 2 May 1825, (C.J.819, p.254-269)  
The case was heard by the Court of Commissioners.  
The accused, who was 21 years of age and was born in Ireland, was found guilty of wounding the slave Lafleur.  
Sentenced to be banished from the colony for 3 years.
11. Fiscal v The Slave, Dollie of the Cape, 2 June 1825, (C.J.819, p.270-285)  
The accused, who was approximately 30 years of age, was found guilty of desertion and the theft of a horse.  
\* The accused had a previous conviction for a daring housebreaking and theft dated 25 May 1820.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.
12. Landdrost of Stellenbosch v The Slave, Jan of the Cape, 2 June 1825, (C.J.819, p.286-312)  
The accused, who was approximately 30 years of age, was found guilty of treating the slave Anna in a most cruel manner, after having satisfied his lust on her. The crime was aggravated by the fact that, after returning a second time, he found her in a dangerous state and left her lying there helpless, after robbing her. (Rape and Robbery)  
Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for the term of his natural life.

13. Landdrost of George v The Slaves : 1) Jephtha from Mocambique; 2) April from Mocambique; 3) The Female Hottentot, Lena; 4) The Female Slave, Rosetta of the Cape & 5) The Female Slave, Silvia of the Cape, 2 June 1825, (C.J.819, p.313-330)  
The first accused, who was approximately 50 years of age, the second accused, who was approximately 35, the third accused, who was approximately 14, the fourth accused, who was approximately 25, and the fifth accused, who was approximately 40, were found guilty of desertion with the intention of proceeding to Kafferland and vagabondising in a gang. The first and second accused were also found guilty of repeated housebreaking and theft. The third, fourth, and fifth accused were found guilty of being accomplices. The first and second accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 5 years. The third, fourth, and fifth accused were sentenced to witness the punishment and then to be returned to their respective masters.
14. Landdrost of Uitenhage v The Slave, Demas from Mocambique, 2 June 1825, (C.J.819, p.331-341)  
The accused, who was approximately 45 years of age, was found guilty of the murder of the slave girl Roosje. Sentenced to be hanged by the neck until dead.
15. Secretary of The Cape District v The Slave, Florant from Mocambique, 16 June 1825, (C.J.819, p.342-346)  
The case was heard by the Board of Landdrost and Heemraden. The accused, who was approximately 35 years of age, was found guilty of theft. Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at Robben island for 1 year.  
*\* Fiat Execution : With the accused to be confined in irons for 1 year and to labour with his master instead of on the public works.*
16. Landdrost of Stellenbosch v The Slave, August of the Cape, 15 July 1825, (C.J.819, p.347-362)  
The accused, who was approximately 44 years of age, was found guilty of the theft of sheep. (Stock Theft) Sentenced to be severely scourged and then returned to his master.
17. Landdrost of Worcester v The Slaves, Adam of the Cape & Africa of the Cape, 15 July 1825, (C.J.819, p.363-382)  
The first accused, who was approximately 25 years of age, and the second accused, who was approximately 30, were found guilty of desertion, vagabondising in a gang, housebreaking, and theft. The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years.
18. Secretary of The Cape District v The Free Black, Pieter & The Female Hottentot, Catharyn, 30 July 1825, (C.J.819, p.383-388)  
The case was heard by the Board of Landdrost and Heemraden. The first accused, who was approximately 35 years of age, was

found guilty of theft. The second accused, who was approximately 30 years of age, was found guilty of being an accomplice.

\* The first accused had a previous conviction for theft dated 3 September 1821.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years. The second accused was sentenced to be confined in prison for 1 month on a diet of bread and water.

19. Fiscal v The Prize Negro, Harry, 2 August 1825, (C.J.819, p.389-400)

The case was heard by the Court of Commissioners.

The accused, who was approximately 25 years of age, was found guilty of repeated theft.

Sentenced to be severely scourged.

20. Landdrost of Worcester v The Hottentot, Ruyter Platjes, 3 August 1825, (C.J.819, p.401-424)

The case was heard by the Circuit Court at Worcester.

The accused, who was approximately 35 years of age, was found guilty of vagabondising and a daring robbery, accompanied with violence.

\* The accused had a previous conviction for stock theft dated 30 July 1825. (Sentence annulled by the the Circuit Court on account of it being for a lesser crime)

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be scourged and branded. Thereafter to be confined in irons and to labour on the public works for the term of his natural life.

21. Landdrost of Worcester v The Hottentot, Jan Evert, 4 August 1825, (C.J.819, p.425-446)

The case was heard by the Circuit Court at Worcester.

The accused, who was approximately 25 years of age, was found guilty of vagabondising in an armed gang, housebreaking, and theft. The accused was also found guilty of endangering the lives of several persons and thereby causing the slave Valentyn to be dangerously wounded.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.

22. Landdrost of George v The Hottentot, Vagerman, 7 August 1825, (C.J.819, p.447-471)

The accused, who was approximately 35 years of age, was found guilty of culpable homicide.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.

23. Landdrost of Stellenbosch v The Slaves : 1) Sylvester of the Cape; 2) Abraham of the Cape; 3) Appollos of the Cape; 4) Adolph of the Cape & 5) Louis of the Cape, 11 August 1825, (C.J.819, p.472-486)

The first accused, who was approximately 50 years of age, the second accused, who was approximately 17, the third accused, who was approximately 40, the fourth accused, who was approximately

40, and the fifth accused, who was approximately 40, were found guilty of desertion, vagabondising, plotting, and repeated theft of cattle. (Stock Theft)

\* The first and fifth accused had previous convictions for similar offences.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first and fifth accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the fifth accused for 3 years. The second, third, and fourth accused to be returned to their masters.

24. Landdrost of Stellenbosch v The Slave, Africa of the Cape & The Hottentot, Piet Ruyter, 11 August 1825, (C.J.819, p.487-501)

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 40, were found guilty of desertion, vagabondising, and theft from gardens. The first accused was also found guilty of housebreaking.

\* The second accused had a previous conviction dated 26 November 1818.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 3 years.

25. Landdrost of Graaff Reinet v 1)The Hottentot, Africaander; 2) The Female Hottentot, Marie; 3) The Slave, Christiaan of the Cape, 4) The Hottentot, Lambert & 5) The Female Hottentot, Griet, 19 August 1825, (C.J.819, p.520-548)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 20, the third accused, who was approximately 20, and the fourth accused, who was approximately 30, were found guilty of vagabondising, plotting, and theft of cattle. (Stock Theft) The first accused was also found guilty of public violence, and the third and fourth accused of housebreaking and theft. The fifth accused, who was approximately 20 years of age, was found guilty of vagabondising.

\* The first accused had two previous convictions dated 6 January 1818 and 30 October 1822, and the fourth accused had previous convictions dated 13 March 1822 and 20 November 1823.

The first and fourth accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the third accused, to be severely scourged and branded. Thereafter the first and fourth accused to be confined in irons and to labour on the public works at Robben Island for 15 years. The third accused to be confined in irons for 5 years and to labour with his master. The second and fifth accused were sentenced to witness the punishment. Thereafter both the accused to be confined in prison. The second accused for 6 months, and the fifth accused for 1 month on a diet of bread and water.

26. Landdrost of Graaff Reinet v The Hottentots, Flamink & Booy, 19 August 1825, (C.J.819, p.549-564)

The case was heard by the Circuit Court at Graaff Reinet.



The first accused, who was approximately 30 years of age, and the second accused, who was approximately 14, were found guilty of vagabondising, housebreaking, and theft.

The accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works at the Drostdy for 3 years.

27. Landdrost of Graaff Reinet v The Hottentots : 1) Platje; 2) Nooitgedagt & 3) Windvogel, 20 August 1825, (C.J.819, p.502-519)

The case was heard by the Circuit Court at Graaff Reinet.

The first and second accused, who were both approximately 25 years of age, and the third accused, who was approximately 13, were found guilty of vagabondising, housebreaking, and theft.

The accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works at the Drostdy for 5 years.

28. Landdrost of Graaff Reinet v The Hottentots : 1) Jacob; 2) Kobus; 3) The Female Hottentot, Sanna; 4) The Female Hottentot, Kaatje; 5) The Hottentot, Kandaas & 6) The Female Hottentot, Catryn, 20 August 1825, (C.J.819, p.565-586)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 14, the third accused, who was approximately 25, the fourth accused, who was approximately 40, and the sixth accused, who was approximately 50, were found guilty of desertion, vagabondising, and theft of sheep. (Stock Theft) The first and second accused were also found guilty of shooting poisoned arrows at C.J. Van Niekerk and the Hottentot Fix. The fifth accused, who was blind, was discharged.

The first and second accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works at the Drostdy for 5 years. The confinement already undergone by the third, fourth, and sixth accused was considered to be a sufficient and adequate punishment.

29. Landdrost of Graaff Reinet v The Hottentot, Jan Booy, 20 August 1825, (C.J.819, p.587-599)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 30 years of age, was found guilty of imprudently and rashly firing a loaded gun, which wounded and killed a Hottentot. (Culpable Homicide)

Sentenced to be confined in prison for 1 year.

30. Landdrost of Graaff Reinet v The Hottentot, Adam, 20 August 1825, (C.J.819, p.600-612)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 35 years of age, was found guilty of vagabondising and theft of cattle. (Stock Theft)

\* The accused had a previous conviction dated 1 October 1821.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

The first accused, who was approximately 30 years of age, and the second accused, who was approximately 14, were found guilty of vagabondising, housebreaking, and theft.

The accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works at the Drostdy for 3 years.

27. Landdrost of Graaff Reinet v The Hottentots : 1) Platje; 2) Nooitgedagt & 3) Windvogel, 20 August 1825, (C.J.819, p.502-519)

The case was heard by the Circuit Court at Graaff Reinet.

The first and second accused, who were both approximately 25 years of age, and the third accused, who was approximately 13, were found guilty of vagabondising, housebreaking, and theft.

The accused were sentenced to be severely scourged. The first and second accused to be branded. Thereafter the first and second accused to be confined in irons and to labour on the public works at the Drostdy for 5 years.

28. Landdrost of Graaff Reinet v The Hottentots : 1) Jacob; 2) Kobus; 3) The Female Hottentot, Sanna; 4) The Female Hottentot, Kaatje; 5) The Hottentot, Kandaas & 6) The Female Hottentot, Catryn, 20 August 1825, (C.J.819, p.565-586)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 14, the third accused, who was approximately 25, the fourth accused, who was approximately 40, and the sixth accused, who was approximately 50, were found guilty of desertion, vagabondising, and theft of sheep. (Stock Theft) The first and second accused were also found guilty of shooting poisoned arrows at C.J. Van Niekerk and the Hottentot Fix. The fifth accused, who was blind, was discharged.

The first and second accused were sentenced to be severely scourged. Thereafter the first accused to be confined in irons and to labour on the public works at the Drostdy for 5 years. The confinement already undergone by the third, fourth, and sixth accused was considered to be a sufficient and adequate punishment.

29. Landdrost of Graaff Reinet v The Hottentot, Jan Booy, 20 August 1825, (C.J.819, p.587-599)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 30 years of age, was found guilty of imprudently and rashly firing a loaded gun, which wounded and killed a Hottentot. (Culpable Homicide)

Sentenced to be confined in prison for 1 year.

30. Landdrost of Graaff Reinet v The Hottentot, Adam, 20 August 1825, (C.J.819, p.600-612)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 35 years of age, was found guilty of vagabondising and theft of cattle. (Stock Theft)

\* The accused had a previous conviction dated 1 October 1821.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

31. Landdrost of Graaff Reinet v The Hottentot, Klaas, 22 August 1825, (C.J.819, p.613-635)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused, who was approximately 40 years of age, was found guilty of grossly ill-treating his wife.  
Sentenced to be confined in prison for 1 year.
32. Landdrost of The Cape District v The Hottentot Convict, Thys Cobus, 24 August 1825, (C.J.819, p.636-647)  
The accused was found guilty of desertion, vagabondising, and offering resistance to and repeatedly wounding a government slave, when detected in an act of theft.  
\* The accused had a previous conviction.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.
33. Landdrost of Somerset v The Hottentot, Constabel, 27 August 1825, (C.J.819, p.648-658)  
The case was heard by the Circuit Court at Somerset.  
The accused, who was approximately 25 years of age, was found guilty of desertion, housebreaking, and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 1 year.
34. Landdrost of Somerset v Jacobus Abraham Erasmus, 30 August 1825, (C.J.819, p.659-682)  
The case was heard by the Circuit Court at Somerset.  
The accused, who was 33 years of age and was born in the colony, was found guilty of forcibly ravishing Jacoba Coetzer, the wife of his stepson. (Rape)  
Sentenced to be transported to New South Wales for 7 years.
35. Secretary of The Albany District v James Ford, 5 September 1825, (C.J.819, p.683-695)  
The case was heard by the Circuit Court at Albany.  
The accused was found guilty of fraud and theft.  
Sentenced to be confined to labour on the public works for 2 years and to labour for the first year in irons.
36. Secretary of The Albany District v William Banks, 5 September 1825, (C.J.819, p.696-709)  
The case was heard by the Circuit Court at Albany.  
The accused was found guilty of ill-treating and dangerously wounding William Atterall.  
Sentenced to be confined on Robben Island for 3 years and to be banished from the Albany District for 7 years.
37. Secretary of The Cape District v The Prize Negro, Josie, 17 September 1825, (C.J.819, p.736-741)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 35 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

38. Fiscal v Henry Tarr & William Griffin, 27 September 1825, (C.J.819, p.710-723)  
The case was heard by the Court of Commissioners.  
The first accused, who was 30 years of age and was born in Sweden, and the second accused, who was 32 years of age and was born in Ireland, were found guilty of theft and concealing stolen goods.  
The accused were sentenced to be confined in irons and to labour on the public works at Robben Island for 1 year.
39. Fiscal v The Moor, Jouman, 27 September 1825, (C.J.819, p.724-735)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 20 years of age, was found guilty of theft.  
Sentenced to be confined in irons and to labour on the public works at Robben Island for 1 year.
40. Landdrost of Swellendam v The Hottentot, Platje Steenbok, 29 September 1825, (C.J.819, p.742-759)  
The case was heard by the Circuit Court at Swellendam.  
The accused, who was approximately 20 years of age, was found guilty of repeated housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 5 years.
41. Landdrost of Swellendam v The Hottentots : 1) Daniel Smit; 2) Hendrik Kaalkop; 3) Joseph Piet; 4) David Duimpie & 5) Cupido Uithaalter, 29 September 1825, (C.J.819, p.760-683)  
The case was heard by the Circuit Court at Swellendam.  
The first accused, who was approximately 26 years of age, the second accused, who was approximately 20, the third accused, who was approximately 35, and the fourth accused, who was approximately 20, were found guilty of housebreaking, theft, and violence. The fifth accused, who was approximately 30 years of age, together with the first and second accused, were found guilty of the repeated theft of sheep. (Stock Theft)  
The first, second, third, and fourth accused were sentenced to be exposed to the public view under the gallows with ropes round their necks. Thereupon, together with the fifth accused, to be severely scourged. The first four accused to be branded. Thereafter the five accused to be confined in irons and to labour on the public works. The first, second, third, and fourth accused for life, and the fifth accused for 3 years.
42. Landdrost of Swellendam v The Hottentot, Jan Minie, 29 September 1825, (C.J.819, p.784-795)  
The case was heard by the Circuit Court at Swellendam.  
The accused, who was approximately 31 years of age, was found guilty of the theft of sheep. (Stock Theft)  
\* The accused had a previous conviction for theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 5 years.

43. Landdrost of Swellendam v The Hottentot, Cobus Roman & The Slave, Alexander from Madagascar, 29 September 1825, (C.J.819, p.796-811)  
The case was heard by the Circuit Court at Swellendam.  
The first accused, who was approximately 45 years of age, and the second accused, who was approximately 30, were found guilty of vagabondising in a gang and assisting in carrying away and making use of stolen goods.  
The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons for 3 years. The first accused to labour on the public works at the Drostdy, and the second accused to labour with his master.
44. Fiscal v The Slave, Manuel of the Cape, 15 October 1825, (C.J.819, p.812-828)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 22 years of age, was found guilty of theft.  
Sentenced to be severely scourged and then returned to his master.
45. Landdrost of George v The Hottentot, Snees, 27 October 1825, (C.J.819, p.829-845)  
The accused was found guilty of vagabondising, housebreaking, and theft.  
\* The accused had two previous convictions dated 9 February 1821 and 20 July 1822.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 15 years.  
\* Fiat Execution : *With the confinement reduced to 7 years*.
46. Landdrost of Stellenbosch v The Slaves : 1) Vrolyk; 2) Vondeling; 3) Pedro; 4) The Female Slave, Constantia & 5) The Female Slave, Philida, 27 October 1825, (C.J.819, p.846-863)  
The first accused, who was approximately 35 years of age, the second accused, who was approximately 25, the third accused, who was approximately 28, the fourth accused, who was approximately 35, and the fifth accused, who was approximately 28, were found guilty of desertion, vagabondising, and plotting. The first, second, and third accused were also found guilty of the repeated theft of cattle.  
\* The second and third accused had a previous convictions dated 14 March 1825.  
The first, second, and third accused were sentenced to be severely scourged. The second and third accused to be branded. Thereafter the first three accused to be confined in irons and to labour on the public works. The first accused for 3 years, and the second and third accused for 5 years. The confinement already undergone by the fourth and fifth accused was considered to be a sufficient and adequate punishment.
47. Secretary of The Cape District v The Prize Negro, Rimpele, 12 November 1825, (C.J.819, p.864-869)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 30 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

48. Landdrost of The Cape District v The Hottentot Convict, October, 17 November 1825, (C.J.819, p.870-891)  
The accused, who was approximately 30 years of age, was found guilty of threatening his overseer with a knife. The accused was also found guilty of violence, both by repeatedly breaking out of his irons and by binding the overseer and threatening to kill him. In addition, the accused was found guilty of desertion and theft of sheep. (Stock Theft)  
\* The accused was serving a term of confinement which was only due to expire in 1830.  
Sentenced to be severely scouged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years. The period of confinement to commence after the confinement prescribed by the previous sentence had been served.
49. Landdrost of Stellenbosch v The Hottentot, Klaas, 17 November 1825, (C.J.819, p.892-906)  
The accused, who was approximately 20 years of age, was found guilty of theft.  
\* The accused had a previous conviction for housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
50. Secretary of The Cape District v The Hottentot, Jan Johannes, 20 November 1825, (C.J.819, p.907-910)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 30 years of age, was found guilty of vagrabondising and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
51. Secretary of The Cape District v The Prize Negro, Frank, 3 December 1825, (C.J.819, p.911-914)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
52. Deputy Landdrost of Clanwilliam v The Bushman, Thys, 15 December 1825, (C.J.819, p.931-963)  
The accused, who was approximately 23 years of age, was found guilty of the murder of his concubine.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : *On 20 march 1826 the accused made an application to the Court of Criminal Appeals for leave to appeal against the conviction and sentence. Leave was granted, and on 21 June 1826 the Court upheld the appeal and reversed the sentence of the Court of Justice. (G.H.47/2/28 ; G.H.47/1/1, p.172 et seq.)*

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

48. Landdrost of The Cape District v The Hottentot Convict, October, 17 November 1825, (C.J.819, p.870-891)  
The accused, who was approximately 30 years of age, was found guilty of threatening his overseer with a knife. The accused was also found guilty of violence, both by repeatedly breaking out of his irons and by binding the overseer and threatening to kill him. In addition, the accused was found guilty of desertion and theft of sheep. (Stock Theft)  
\* The accused was serving a term of confinement which was only due to expire in 1830.  
Sentenced to be severely scouged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years. The period of confinement to commence after the confinement prescribed by the previous sentence had been served.
49. Landdrost of Stellenbosch v The Hottentot, Klaas, 17 November 1825, (C.J.819, p.892-906)  
The accused, who was approximately 20 years of age, was found guilty of theft.  
\* The accused had a previous conviction for housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.
50. Secretary of The Cape District v The Hottentot, Jan Johannes, 20 November 1825, (C.J.819, p.907-910)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 30 years of age, was found guilty of vagrabondising and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
51. Secretary of The Cape District v The Prize Negro, Frank, 3 December 1825, (C.J.819, p.911-914)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.
52. Deputy Landdrost of Clanwilliam v The Bushman, Thys, 15 December 1825, (C.J.819, p.931-963)  
The accused, who was approximately 23 years of age, was found guilty of the murder of his concubine.  
Sentenced to be hanged by the neck until dead.  
\* Court of Criminal Appeals : On 20 march 1826 the accused made an application to the Court of Criminal Appeals for leave to appeal against the conviction and sentence. Leave was granted, and on 21 June 1826 the Court upheld the appeal and reversed the sentence of the Court of Justice. (G.H.47/2/28 ; G.H.47/1/1, p.172 et seq.)

53. Fiscal v The Prize Negro, Midas, 16 December 1825, (C.J.819, p.915-930)

The case was heard by the Court of Commissioners.

The accused, who was approximately 20 years of age, was found guilty of housebreaking and theft.

Sentenced to be severely scourged and then returned to his master.

1826

1. Fiscal v The Prize Negro, James, 18 February 1826, (C.J.820, p.5-19)

The case was heard by the Court of Commissioners.

The accused, who was approximately 30 years of age, was found guilty of theft.

Sentenced to be severely scourged and then discharged.

\* Fiat Execution : *With the scourging remitted to 50 lashes.*

2. Fiscal v Patrick Doherty, 6 March 1826, (C.J.820, p.20-43)

The accused, who was 24 years of age and was born in Ireland, was found guilty of maltreating his wife, who died as a result. (Culpable Homicide)

Sentenced to be transported to New South Wales for life.

3. Fiscal v 1) William Stewart; 2) Charles Logan & 3) Michael Logan, 9 March 1826, (C.J.820, p.44-76)

The first accused, who was 25 years of age and was born in Scotland, the second accused, who was 26 and was born in Ireland, and the third accused, who was 38 and was born in Ireland, were found guilty of housebreaking and theft.

The accused were sentenced to be transported to New South Wales for 14 years.

4. Fiscal v The Hottentot, Piet Stuurman, 3 April 1826, (C.J.820, p.77-96)

The case was heard by the Court of Commissioners.

The accused, one of the Black Constables, who was approximately 20 years of age, was found guilty of violence and of wounding Abraham Bove in a public tap house. The crime was aggravated by the fact that the accused was a Constable, whose duty it was to help to maintain and preserve order.

\* The accused had a previous conviction for a breach of the Articles of War dated 26 August 1822.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for life.

\* Fiat Execution : *With remission of the scourging.*

5. Landdrost of Stellenbosch v Dennis Donohough, 6 April 1826, (C.J.820, p.97-128)

The accused, who was 25 years of age and was born in Ireland, was found guilty of the most heinous thefts and falsity.

Sentenced to be transported to New South Wales for 7 years.

6. Secretary of The Cape District v Jacob Kats, 15 April 1826, (C.J.820, p.129-135)



The case was heard by the Board of Landdrost and Heemraden. The accused, who was 44 years of age, was found guilty of housebreaking and theft.

\* The accused had a previous conviction for wounding. Sentenced to be banished from the colony for 3 years.

7. Landdrost of Worcester v The Hottentots : 1) Marthinus Arends; 2) Jan Arends & 3) The Slave, Philemon, 20 April 1826, (C.J.820, p.136-163)

The first accused, who was approximately 25 years of age, was found guilty of housebreaking and theft. The third accused, who was approximately 18 years of age, was found guilty of being an accomplice. There was insufficient evidence against the second accused and he was discharged.

The first accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years. The confinement already undergone by the third accused was considered to be an adequate punishment.

\* Fiat Execution : *With remission of the scourging and branding.*

8. Landdrost of Worcester v The Hottentot, Soldier Jager, 18 May 1826, (C.J.820, p.164-183)

The accused, who was approximately 30 years of age, was found guilty of desertion, vagabondising, and repeated theft.

\* The accused had a previous conviction for stock theft dated 18 June 1818.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the scourging and branding.*

9. Fiscal v 1) John Smith; 2) Joseph Clarke & 3) Henry Howath, 24 May 1826, (C.J.820, p.184-221)

The case was heard by the Court of Commissioners.

The first accused, who was 20 years of age and was born in England, the second accused, who was 22 years of age and was born in England, and the third accused, who was 23 years of age and was born in England, were found guilty of theft. The second accused was also found guilty of housebreaking, and the first and third accused of being accomplices.

The accused were sentenced to be transported to New South Wales for 7 years.

10. Fiscal v The Hottentot, Adam Maatjan, 1 June 1826, (C.J.820, p.222-241)

The accused, who was approximately 28 years of age, was found guilty of vagabondising, housebreaking, theft, and arson.

Sentenced to be hanged by the neck until dead.

\* Fiat Execution : *With the punishment commuted to confinement and to labour on the public works for 20 years. The accused to labour in irons for the first 5 years.*

11. Landdrost of Stellenbosch v The Slaves, Primo from Mocambique & Pedro from Mocambique, 15 June 1826, (C.J.820, p.242-264)

The first accused, who was approximately 40 years of age, and the

second accused, who was approximately 35, were found guilty of breaking out of prison and vagabondising in a gang. The first accused was also found guilty of the theft of cattle and, together with the second accused, of theft from gardens.

\* Both the accused had previous convictions for similar offences dated 14 March 1825.

The accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 5 years, and the second accused for 3 years.

\* Fiat Execution : *With remission of the scourging and branding.*

12. Fiscal v Fredrik Lahrbusch, 28 June 1826, (C.J.820, p.265-296)

The case was heard by the Court of Commissioners.

The accused, who was 52 years of age and was born in Prussia, was found guilty of forgery and fraud.

Sentenced to be transported to New South Wales for 14 years.

13. Secretary of The Cape District v The Bastard Hottentot, Gerrit Hendrikse, 1 July 1826, (C.J.820, p.297-302)

The case was heard by the Board of Landdrost and Heemraden.

The accused was found guilty of theft.

Sentenced to be severely scourged. Thereafter to be confined in irons for 1 year.

\* Fiat Execution : *With remission of the scourging.*

14. Fiscal v The Hottentot, Jan Jacobs, 3 July 1826, (C.J.820, p.303-312)

The case was heard by the Court of Commissioners.

The accused, who was approximately 20 years of age, was found guilty of being in possession of stolen goods.

Sentenced to be confined in irons and to labour on the public works for 1 year.

15. Fiscal v The Hottentot, Manus, 3 July 1826, (C.J.820, p.313-331)

The case was heard by the Court of Commissioners.

The accused, who was approximately 18 years of age, was found guilty of repeated theft.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year

\* Fiat Execution : *With remission of the scourging.*

16. Secretary of The Cape District v The Slave, Lodewyk of the Cape, 4 July 1826, (C.J.820, p.332-339)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 16 years of age, was found guilty of violence on the person of Rachel Bona and the theft of her shawl.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With remission of the scourging.*

17. Fiscal v The Hottentot, Jan Ruiters, 7 July 1826, (C.J.820, p.340-361)

The accused, who was approximately 30 years of age, was found guilty of attempted sodomy with a mare. Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life.

\* Fiat Execution : *With the punishment commuted to hard labour for life.*

18. Secretary of The Cape District v The Bastard Hottentot, Cobus Thomas, 11 July 1826, (C.J.820, p.362-369)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 30 years of age, was found guilty of wounding the Prize Negro Damon.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 2 years.

\* Fiat Execution : *With remission of the scourging.*

19. Fiscal v The Prize Negro, Uedar & The Hottentot, Hector Piet, 17 July 1826, (C.J.820, p.370-394)

The case was heard by the Court of Commissioners.

The accused were found guilty of housebreaking and theft.

The accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works for 1 year.

\* Fiat Execution : *With remission of the scourging.*

20. Landdrost of Worcester v The Slaves : 1) Lodewyk of the Cape; 2) Amerika of the Cape; 3) July of the Cape; 4) Africa of the Cape; 5) Philip of the Cape; 6) The Bastard Hottentot, Jan Mozes; 7) Carolus of the Cape & 8) Philip of the Cape, 18 July 1826, (C.J.820, p.395-427)

The first accused, who was approximately 27 years of age, the second accused, who was approximately 30, and the third accused, who was approximately 25, were found guilty of being accomplices to a housebreaking and theft. The fourth accused, who was approximately 33 years of age, the fifth accused, who was approximately 16, the sixth accused, who was approximately 35, and the seventh accused, who was approximately 18, were found guilty of assisting in knocking off irons, harbouring and supporting the first accused and, together with the eighth accused, who was approximately 29 years of age, of participating in the stolen brandy.

\* the first accused had a previous conviction dated 17 August 1824.

The first, second, and third accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works. The first accused for 7 years, over and above the period prescribed by his previous sentence. The second and third accused for 1 year. The confinement already undergone by the fourth, fifth, sixth, seventh, and eighth accused was considered to be a sufficient and adequate punishment.

\* Fiat Execution : *With remission of the punishment imposed on the*

*first, second, and third accused on account of the severe treatment they received before trial.*

21. Landdrost of Stellenbosch v The Hottentot, Jantje, 18 July 1826, (C.J.820, p.428-441)  
The accused, who was approximately 16 years of age, was found guilty of desertion, housebreaking, and repeated theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With remission of the scourging.*
22. Fiscal v The Hottentot, Willem Andries, 26 July 1826, (C.J.820, p.442-458)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 25 years of age, was found guilty of theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.  
\* Fiat Execution : *With remission of the scourging.*
23. Fiscal v The Hottentot, Agie, 26 July 1826, (C.J.820, p.459-472)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 22 years of age, was found guilty of theft.  
\* The accused had a previous conviction.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : *With remission of the scourging.*
24. Secretary of The Cape District v Hendrik George Gertze, 29 July 1826, (C.J.820, p.473-480)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was 18 years of age and was born in the colony, was found guilty of theft.  
Sentenced to be banished from the colony for 3 years.
25. Secretary of The Cape District v The Prize Negro, Andries, 1 August 1826, (C.J.820, p.481-484)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 25 years of age, was found guilty of vagabondising and the theft of a horse.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : *With remission of the scourging.*
26. Landdrost of Worcester v The Slave, Patientie from Bougies, 10 August 1826, (C.J.820, p.485-514)  
The accused, who was approximately 60 years of age, was found guilty of attempting to kill his son and of violently attacking the Field-Cornet and wounding him with a stone.  
Sentenced to be confined on Robben Island for 3 months.
27. Landdrost of Worcester v The Slave, Telemachus (Alias Paul) of the Cape, 11 August 1826, (C.J.820, p.515-530)

The accused, who was approximately 35 years of age, was found guilty of desertion, repeated housebreaking, and theft.

\* The accused had a previous conviction for housebreaking and theft dated 3 September 1818.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.

\* Fiat Execution : *With remission of the branding.*

28. Landdrost of Stellenbosch v The Slaves : 1) Maart of the Cape; 2) Isaac from Mocambique & 3) The Hottentot, Klaas (Alias Klaas Bosman), 11 August 1826, (C.J.820, p.531-548)

The first accused, who was approximately 35 years of age, the second accused, who was approximately 30, and the third accused, who was approximately 35, were found guilty of desertion, repeated housebreaking, and theft.

The accused were sentenced to be severely scourged. Thereafter the three accused to be confined in irons and to labour on the public works for 5 years.

29. Landdrost of Stellenbosch v The Slaves : 1) Thomas of the Cape; 2) Isaac of the Cape; 3) The Female Slave, Philida (Alias Mina); 4) The Hottentot, Absalon; 5) The Hottentot, Klaas; 6) The Female Slave, Philippina of the Cape; 7) The Slave, Syme of the Cape & 8) The Slave, Anthony from Mocambique, 11 August 1826, (C.J.820, p.549-572)

The first accused, who was approximately 25 years of age, the second accused, who was approximately 50, the third accused, who was approximately 35, the fourth accused, who was approximately 25, the fifth accused, who was approximately 25, the sixth accused, who was approximately 25, the seventh accused, who was approximately 30, and the eighth accused, who was approximately 50, were found guilty of desertion and vagabondising in a gang. The first, second, third, fourth, fifth, and sixth accused were also found guilty of the theft of cattle, and the seventh and eighth accused of participating in the stolen meat. (Stock Theft)

\* The first accused had a previous conviction for housebreaking and theft, and the second accused had a previous conviction for being an accomplice to a theft dated 3 July 1821.

The first, second, fourth, fifth, and seventh accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first, second, third, fourth, and fifth accused to be confined in irons and to labour on the public works. The first accused for 10 years, the second and third accused for 5 years, and the fourth and fifth accused for 3 years. The sixth accused was sentenced to be confined in prison for 1 month. The eighth accused was sentenced to witness the punishment and, together with the seventh accused, to be returned to their masters.

Fiat Execution : *With remission of the branding imposed on the first accused, and the scourging imposed on the fourth and fifth accused.*

30. Secretary of The Cape District v The Prize Negro, Frank, 2 September 1826, (C.J.820, p.573-575)

The case was heard by the Board of Landdrost and Heemraden. The accused, who was approximately 30 years of age, was found guilty of desertion and of contravening the Ordinance dated 29 August 1825. (For the more effectual apprehension of convicts and vagrants)

\* The accused had a previous conviction dated 3 December 1825. Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the period prescribed in the sentence dated 3 December 1825. (For Life) \*

31. Fiscal v Dennis Quinn, 5 September 1826, (C.J.820, p.576-587)

The case was heard by the Court of Commissioners.

The accused, who was 20 years of age and was born in Ireland, was found guilty of theft.

Sentenced to be confined to labour on the public works at Robben Island for 1 year.

32. Fiscal v The Hottentot, Dienaar De Vries, 5 September 1826, (C.J.820, p.588-606)

The case was heard by the Court of Commissioners.

The accused was found guilty of theft.

\* The accused had a previous conviction.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the scourging.*

33. Fiscal v The Slave, Adonis, 5 September 1826, (C.J.820, p.607-621)

The case was heard by the Court of Commissioners.

The accused, who was approximately 40 years of age, was found guilty of receiving stolen goods.

\* The accused had two previous convictions for similar offences.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the scourging.*

34. Secretary of The Cape District v 1) The Hottentot, Piet Jager; 2) The Prize Negro, Matarie; 3) The Hottentot, Jan Ruiter; 4) The Hottentot, Philip Kraay; 5) The Slave, Louis; 6) The Female Hottentot, Lena & 7) The Female Hottentot, Sara, 5 September 1826, (C.J.820, p.622-634)

The case was heard by the Board of Landdrost and Heemraden.

The first, second, third, fourth, and fifth accused were found guilty of desertion, vagabondising, and repeated theft. The first and second accused were also found guilty of housebreaking, and the third, fourth, fifth, sixth, and seventh accused of being accomplices.

\* The first accused had a previous conviction for theft dated 20 August 1821.

The first, second, third, fourth, and fifth accused were sentenced to be severely scourged. Thereafter the first five accused to be confined in irons and to labour on the public works. The first accused for 10 years, the second accused for 6 years, the third accused for 3 years, the fourth accused for 6 years, and the fifth accused for 1 year. The sixth accused was sentenced to witness the

punishment. Thereafter to be confined in prison for 1 month on a diet of bread and water. The confinement already undergone by the seventh accused was considered to be a sufficient and adequate punishment.

35. Secretary of The Cape District v The Hottentot, Carolus, 8 September 1826, (C.J.820, p.635-640)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 35 years of age, was found guilty of theft and ill-treatment of the Free Black April.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With remission of the scourging.*

36. Fiscal v The Free Black, Christiaan & The Hottenot, Carolus, 21 September 1826, (C.J.820, p.641-663)

The case was heard by the Court of Commissioners.

The first accused, who was approximately 32 years of age, was found guilty of theft. The second accused, who was approximately 30 years of age, was found guilty of having stolen goods in his possession.

\* The first accused had two previous convictions for similar offences.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year. The confinement already undergone by the second accused was considered to be a sufficient and adequate punishment.

37. Fiscal v The Hottentot, Carolus, 5 October 1826, (C.J.820, p.664-675)

The case was heard by the Court of Commissioners.

The accused, who was approximately 30 years of age, was found guilty of theft.

\* The accused had a previous conviction dated 21 September 1826.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.

38. Landdrost of Worcester v The Hottenot, Hermanus Jonker & The Female Hottentot, Lea Boosman, 5 October 1826, (C.J.820, p.676-708)

The case was heard by the Circuit Court at Worcester.

The first accused, who was one of the Black Constables, was found guilty of desertion, vagabondising in an armed gang, theft of cattle, robbery, and gross ill-treatment of the second person, whom he had robbed. The second accused was found guilty of vagabondising, theft of cattle, and of being an accomplice to robbery.

\* The first accused had two previous convictions for stock theft.

The first accused was sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for life. The accused was also declared to be incapable of being employed as a Constable. The second accused was sentenced to be confined and to labour on the public works at the

Drostdy for 1 year.

\* Fiat Execution : *With remission of the branding.*

39. Landdrost of Worcester v 1) The Hottentot, Jan Louis; The Slaves : 2) Reynold; 3) Joseph; 4) Abraham; 5) Isaac & 6) Damon, 5 October 1826, (C.J.820, p.709-733)

The case was heard by the Circuit Court at Worcester.

The first accused, who was approximately 37 years of age, was found guilty of housebreaking and theft. The second accused, who was approximately 31 years of age, the third accused, who was approximately 35, the fourth accused, who was approximately 15, the fifth accused, who was approximately 13, and the sixth accused, who was approximately 34, were found guilty of being accomplices.

The first, second, third, and sixth accused were sentenced to be severely scourged. The first accused to be branded. Thereafter the first, second, third, and sixth accused to be confined in irons. The first accused for 5 years and to labour on the public works. The second, third, and sixth accused for 1 year and to labour with their master. The fourth and fifth accused were sentenced to witness the punishment. Thereafter both the accused to be severely flogged in prison by the Black Constables.

\* Fiat Execution : *With remission of the branding.*

40. Landdrost of Worcester v The Slave, January of the Cape, 5 October 1826, (C.J.820, p.734-751).

The case was heard by the Circuit Court at Worcester.

The accused, who was approximately 27 years of age, was found guilty of wounding his overseer.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 3 years.

\* Fiat Execution : *With remission of the branding.*

41. Landdrost of Worcester v The Slave, Absalon from Mocambique, 6 October 1826, (C.J.820, p.752-766)

The case was heard by the Circuit Court at Worcester.

The accused, who was approximately 60 years of age, was found guilty of raising his knife against his master, although he had no intention to wound him.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.

42. Secretary of The Cape District v The Convict Slave, April of the Cape, 7 October 1826, (C.J.820, p.767-770)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 30 years of age, was found guilty of desertion and of contravening the Ordinance dated 29 August 1825. (For the more effectual apprehension of convicts and vagrants)

\* The accused had a previous conviction dated 7 April 1824.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the period prescribed in the sentence dated 7 April 1824.



43. Secretary of The Cape District v The Hottentot, Witbooy, 7 October 1826, (C.J.820, p.771-775)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 45 years of age, was found guilty of wounding the slave April with a knife.  
Sentenced to be confined in irons and to labour on the public works for 1 year.
44. Fiscal v The Hottentot, Jan Orange, 18 October 1826, (C.J.820, p.776-787)  
The case was heard by the Court of Commissioners.  
The accused, who was approximately 30 years of age, was found guilty of theft.  
Sentenced to be confined in irons and to labour on the public works for 1 year.
45. Landdrost of Graaff Reinet v The Hottentots : 1) Fortuin; 2) Fredrik; 3) The Female Hottentot, Anna & 4) The Female Hottentot, Annatje, 25 October 1826, (C.J.820, p.788-796)  
The case was heard by the Circuit Court at Graaff Reinet.  
The first accused, who was approximately 28 years of age, the second accused, who was approximately 25, the third accused, who was approximately 22, and the fourth accused, who was approximately 22, were found guilty of desertion, vagabondising, and theft of cattle. (Stock Theft)  
\* The first accused had two previous convictions for similar offences dated 17 January 1818 and 4 October 1821.  
The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for life, and the second accused for 6 months. The third and fourth accused were sentenced to be confined in prison for 8 days on a diet of bread and water.  
\* Fiat Execution : *With remission of the branding.*
46. Landdrost of Graaff Reinet v The Hottentot, Adam & The Bushman, Hendrik Telemachus, 27 October 1826, (C.J.820, p.797-808)  
The case was heard by the Circuit Court at Graaff Reinet.  
The accused were found guilty of vagabondising, theft of cattle, housebreaking, and theft.  
\* The first accused had two previous convictions for similar offences dated 1 October 1821 and 20 August 1825, and the second accused had a previous conviction for vagabondising and stock theft.  
The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for life, and the second accused for 5 years.  
\* Fiat Execution : *With remission of the branding.*
47. Landdrost of Somerset v The Hottentots, Witbooy & Klaas, 2 November 1826, (C.J.820, p.809-826)  
The case was heard by the Circuit Court at Somerset.  
The first accused, who was approximately 30 years of age, and the

second accused, who was approximately 35, were found guilty of housebreaking and theft.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 2 years. The second accused was sentenced to be severely flogged in prison by the Constables.

48. Landdrost of Albany v James Ford, 11 November 1826, (C.J.820, p.827-847)

The case was heard by the Circuit Court at Albany.

The accused, who was 22 years of age and was born in Ireland, was found guilty of vagabondising and theft.

\* The accused had a previous conviction dated 29 August 1825.

Sentenced to be confined in irons and to labour on the public works for 5 years.

49. Fiscal v Hendrik Leonard Stohrer, 27 November 1826, (C.J.820, p.848-868)

The case was heard by the Court of Commissioners.

The accused, who was 25 years of age and was born in the colony, was found guilty of fraud.

Sentenced to be confined in some secure place and to labour on the public works for 1 year.

Fiat Execution : *With the accused to be confined on Robben Island.*

50. Fiscal v The Hottentot, Bosman, 1 December 1826, (C.J.820, p.869-879)

The case was heard by the Court of Commissioners.

The accused, who was approximately 16 years of age, was found guilty of concealing a theft.

Sentenced to be confined in irons and to labour on the public works for 1 year.

51. Landdrost of Stellenbosch v The Slaves : 1) Africa of the Cape; 2) Philander of the Cape; 3) Lafleur from Mocambique; 4) Klaas of the Cape & 5) The Female Slave, Francina of the Cape, 1 December 1826, (C.J.820, p.880-922)

The first accused, who was approximately 30 years of age, the second accused, who was approximately 35, the third accused, who was approximately 50, the fourth accused, who was approximately 36, and the fifth accused, who was approximately 43, were found guilty of desertion and vagabondising in a gang. The first, second, and third accused were also found guilty of being accomplices to housebreaking and repeated theft. The fourth accused was found guilty of the theft of sheep and fruit. The fifth accused was found guilty of keeping company with a roving and plundering gang and of participating in the booty.

\* The first, second, and fourth accused had precious convictions for similar offences.

The first, second, third, and fourth accused were sentenced to be severely scourged. The first, second, and third accused to be branded. Thereafter the first four accused to be confined in irons and to labour on the public works. The first accused for 5 years, the second and third accused for 3 years, and the fourth accused

for 10 years. The fifth accused was sentenced to be confined in some secure place for 6 months.

\* Fiat Execution : *With remission of the branding, and the fifth accused to be sent to Robben Island.*

52. Fiscal v Jacob van Reenen, 6 December 1826, (C.J.820, p.923-942)  
The case was heard by the Court of Commissioners.  
The accused, who was 40 years of age and was born in the colony, was found guilty of stellionatus. (Fraud)  
Sentenced to be confined on Robben Island or some other secure place for 1 year.
53. Landdrost of Stellenbosch v The Slave, Africa of the Cape, 14 December 1826, (C.J.820, p.943-956)  
The accused, who was approximately 40 years of age, was found guilty of housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : *With remission of the scourging.*
54. Secretary of The Cape District v 1) The Slave, Adam of the Cape; The Hottenots : 2) Cobus Cobus; 3) Klaas Diederik (Alias Vigilant); 4) Hendrik Keysman; 5) Hendrik Jacob (Alias Andries Jacob); 6) Willem Cornelis; 7) Japie Arends (Alias Klaas); 8) Jan Noach; 9) Piet Ruiter; 10) Klaas Bommer; 11) Kezzar Platje; 12) Marthinus Ney & 13) October (Alias Africa), 14 December 1826, (C.J.957-963)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who were convicts, were found guilty of desertion and of contravening the Ordinance dated 29 August 1825.  
The accused were sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the periods prescribed by their previous sentences.  
\* Fiat Execution : *With remission of the scourging.*
55. Landdrost of George v Jan Appel & Lena Strydom, 18 December 1826, (C.J.820, p.964-972)  
The case was heard by the Circuit Court at George.  
The first accused, who was 35 years of age and was born in the colony, and the second accused, who was 20 years of age and was born in the colony, were found guilty of incest.  
The first accused was sentenced to be confined on Robben Island for 5 years. The second accused was sentenced to be confined in the prison at George for 1 year.
56. Fiscal v The Slaves : 1) Joseph of the Cape; 2) Gert of the Cape; 3) Christiaan of the Cape & 4) Alexander of the Cape, 19 December 1826, (C.J.820, p.973-987)  
The case was heard by the Court of Commissioners.  
The first accused, who was approximately 14 years of age, was found guilty of theft. The second accused, who was approximately 18, the third accused, who was approximately 14, and the fourth accused, who was approximately 14, were found guilty of being accomplices.

The second and fourth accused were sentenced to be severely scourged. Thereafter the fourth accused to be confined in irons and to labour on the public works for 6 months. The confinement already undergone by the first and third accused was considered to be an adequate punishment.

57. Fiscal v The Slaves : 1) Adonis of the Cape; 2) Azor of the Cape; 3) Isaak of the Cape; 4) The Free Black, Camies; 5) Carolus of the Cape; 6) September of the Cape; 7) The Free Black, Dollie Telemachus; 8) Isaac of the Cape; 9) The Free Black, Abdol from Java; 10) The Female Slave, Saartje & 11) The Free Black, Willem, 20 December 1826, (C.J.820, p.992-1025; G.H.47/2/28 & G.H.47/1/1, p.175 et seq.)

The first, second, third, and fourth accused were found guilty of repeated housebreaking and theft. The ninth and tenth accused were found guilty of receiving and concealing the stolen goods. The fifth, sixth, seventh, eighth, and eleventh accused were released under 'handtasting'.

\* The first accused had a previous conviction dated 12 September 1822, the second accused had a previous conviction dated 9 September 1816, and the fourth accused had a previous conviction dated 11 February 1823.

The first accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the second, third, fourth, and ninth accused, to be severely scourged. The first, second, third, and fourth accused to be branded. Thereafter the first, second, third, fourth, and ninth accused to be confined in irons and to labour on the public works. The first, second, and fourth accused for life, the third accused for 10 years, and the ninth accused for 3 years. The tenth accused was sentenced to be exposed to the public view with a board round her neck, containing the words 'Receiver of Stolen Property'. Thereafter to be confined and to labour without irons on the public works for 3 years.

\* Court of Criminal Appeals : The ninth and tenth accused, Abdol and Saartje, lodged an appeal against their conviction and sentences with the Court of Criminal Appeals. On 14 May 1827 the Court upheld the appeal and ordered their immediate release.

\* Fiat Execution : With remission of the exposure, branding, and scourging.

58. Secretary of The Cape District v The Convict Slave, Silvester of the Cape, 23 December 1826, (C.J.820, p.988-991)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 47 years of age, was found guilty of desertion and of contravening the Ordinance dated 29 August 1825.

\* The accused had a previous conviction dated 27 August 1825.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the period prescribed by the sentence dated 27 August 1825.

\* Fiat Execution : With remission of the scourging.

The second and fourth accused were sentenced to be severely scourged. Thereafter the fourth accused to be confined in irons and to labour on the public works for 6 months. The confinement already undergone by the first and third accused was considered to be an adequate punishment.

57. Fiscal v The Slaves : 1) Adonis of the Cape; 2) Azor of the Cape; 3) Isaak of the Cape; 4) The Free Black, Camies; 5) Carolus of the Cape; 6) September of the Cape; 7) The Free Black, Dollie Telemachus; 8) Isaac of the Cape; 9) The Free Black, Abdol from Java; 10) The Female Slave, Saartje & 11) The Free Black, Willem, 20 December 1826, (C.J.820, p.992-1025; G.H.47/2/28 & G.H.47/1/1, p.175 et seq.)

The first, second, third, and fourth accused were found guilty of repeated housebreaking and theft. The ninth and tenth accused were found guilty of receiving and concealing the stolen goods. The fifth, sixth, seventh, eighth, and eleventh accused were released under 'handtasting'.

\* The first accused had a previous conviction dated 12 September 1822, the second accused had a previous conviction dated 9 September 1816, and the fourth accused had a previous conviction dated 11 February 1823.

The first accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon, together with the second, third, fourth, and ninth accused, to be severely scourged. The first, second, third, and fourth accused to be branded. Thereafter the first, second, third, fourth, and ninth accused to be confined in irons and to labour on the public works. The first, second, and fourth accused for life, the third accused for 10 years, and the ninth accused for 3 years. The tenth accused was sentenced to be exposed to the public view with a board round her neck, containing the words 'Receiver of Stolen Property'. Thereafter to be confined and to labour without irons on the public works for 3 years.

\* Court of Criminal Appeals : The ninth and tenth accused, Abdol and Saartje, lodged an appeal against their conviction and sentences with the Court of Criminal Appeals. On 14 May 1827 the Court upheld the appeal and ordered their immediate release.

\* Fiat Execution : With remission of the exposure, branding, and scourging.

58. Secretary of The Cape District v The Convict Slave, Silvester of the Cape, 23 December 1826, (C.J.820, p.988-991)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 47 years of age, was found guilty of desertion and of contravening the Ordinance dated 29 August 1825.

\* The accused had a previous conviction dated 27 August 1825.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the period prescribed by the sentence dated 27 August 1825.

\* Fiat Execution : With remission of the scourging.

1827

1. Secretary of The Cape District v The Slave, Arie from Mauritius, 4 January 1827, (C.J.821, p.5-8)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 40 years of age, was found guilty of the theft of a horse.  
Sentenced to be confined in irons and to labour on the public works for 1 year.
2. Landdrost of Stellenbosch v 1) The Slave, Present of the Cape; 2) The Hottentot, Arie; 3) The Female Hottentot, Catryn (Alias Catharina) & 4) The Hottentot, Jan Voes, 11 January 1827, (C.J.821, p.9-39)  
The first accused, who was approximately 30 years of age, and the second accused, who was approximately 20, were found guilty of housebreaking and theft. The third accused, who was approximately 30 years of age, was found guilty of receiving stolen goods. The fourth accused, who was approximately 40 years of age, was found guilty of assisting the first accused to absent himself from his master's house.  
The first and second accused were sentenced to be severely scourged. Thereafter both the accused to be confined in irons and to labour on the public works at Robben Island for 5 years. The third accused was sentenced to be confined and to labour without irons on the public works at Robben Island for 3 months. The confinement already undergone by the fourth accused was considered be an adequate punishment.  
\* Fiat Execution : *With the third accused to be confined in the district prison.*
3. Secretary of The Cape District v The Hottentot Convict, Courage, 23 January 1827, (C.J.821, p.40-43)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 30 years of age, was found guilty of desertion and of contravening the Ordinance dated 29 August 1825.  
\* The accused had a previous conviction.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the period prescribed by the former sentence.  
\* Fiat Execution : *With remission of the scourging.*
4. Secretary of The Cape District v Lawrence Redman, 23 January 1827, (C.J.821, p.44-47)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was 35 years of age and was born in Ireland, was found guilty of theft.  
Sentenced to be banished from the colony for 3 years.
5. Landdrost of Graaff Reinet v The Hottentot, Pardon, 7 February 1827, (C.J.821, p.48-76)  
The accused, who was approximately 40 years of age, was found guilty of a gross excess in the measure of justifiable defence

used against the Hottentot Jonker, who died as a result.  
(Culpable Homicide)

Sentenced to be confined in irons and to labour on the public works at the Drostdy for 15 years.

6. Landdrost of Graaff Reinet v The Bushmen : 1) Uithaalter; 2) Kieviet & 3) Slinger, 7 February 1827, (C.J.821, p.77-90)

The first accused, who was approximately 50 years of age, the second accused, who was approximately 23, and the third accused, who was approximately 30, were found guilty of murder and robbery. The accused were sentenced to be hanged by the neck until dead.

Fiat Execution : With suspension of the sentence against the second accused until His Majesty's pleasure is known. On 14 August 1827 the Governor was informed that the King had pardoned the accused. (Records of The Cape Colony, Vol.32, p.326.)

7. Landdrost of Graaff Reinet v The Hottentot, Gerrit, 7 February 1827, (C.J.821, p.91-114)

The accused, who was approximately 22 years of age, was found guilty of arson.

\* The accused had a previous conviction dated 21 November 1823. Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years. The period of confinement to commence after the accused had completed the period of confinement prescribed by the former sentence.

\* Fiat Execution : With remission of the branding.

8. Landdrost of Clanwilliam v The Hottentots : 1) Jantje Blom; 2) Laberlot & 3) Langsman, 7 February 1827, (C.J.821, p.115-149)

The first accused, who was approximately 28 years of age, was found guilty of shooting a fleeing Bushman and burning the corpse. The second accused, who was approximately 30 years of age, was found guilty of shooting at Bushmen. The third accused, who was approximately 14 years of age, was found guilty of shooting and burning a corpse. The three accused were also found guilty of complicity in the plan to commit violence on the Bushmen, which resulted in the death of many of them.

The first and second accused were sentenced to be confined in irons and to labour on the public works at Robben Island for 15 years. The third accused was sentenced to be confined in irons and to labour on the public works at the Drostdy for 1 year.

9. Landdrost of Worcester v 1) The Hottentot, Piet Hans; 2) The Slave, Moses & 3) The Female Slave, Kaatie Platjes, 7 February 1827, (C.J.821, p.150-179)

The first accused, who was approximately 40 years of age, the second accused, who was approximately 38, and the third accused, who was approximately 30, were found guilty of desertion, vagabondising, and plotting. The first and second accused were also found guilty of repeated armed attacks, planned renegade violence, resistance, and repeated theft. The third accused was found guilty of having knowledge of these offences.

\* The first accused had a previous conviction for culpable

homicide dated 14 March 1822, and the second accused had a previous conviction for vagabondising and theft dated 19 May 1820.

The first accused was sentenced to be hanged by the neck until dead. The second accused was sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for life. The third accused was sentenced to be confined in irons and to labour on the public works at the Drostdy for 1 year.

\* Fiat Execution : *With the sentence of death imposed on the first accused commuted to confinement in irons and to labour on the public works for life, after having undergone the same punishment as the second accused.*

10. Secretary of The Cape District v The Hottentot, Christiaan, 15 February 1827, (C.J.821, p.180-187)

The case was heard by the Board of Landdrost and Heemraden.

The accused, who was approximately 40 years of age, was found guilty of theft and receiving stolen goods.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 6 years.

\* Fiat Execution : *With remission of the confinement to 3 years.*

11. Landdrost of Stellenbosch v The Slave, Carolus of the Cape & The Free Black, Adam Sourat, 26 February 1827, (C.J.821, p.188-223)

The first accused, who was approximately 20 years of age, and the second accused, who was approximately 26, were found guilty of housebreaking and theft.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works for 15 years.

\* Fiat Execution : *With remission of the branding.*

12. Fiscal v Hugh Robertson, 8 March 1827, (C.J.821, p.224-235)

The accused was found guilty of an attempt to commit sodomy.

Sentenced to be transported to New South Wales for 14 years.

13. Fiscal v The Slaves, Isaac of the Cape & Abdul of the Cape, 26 March 1827, (C.J.821, p.236-274)

The first and second accused, who were both approximately 25 years of age, were found guilty of housebreaking and theft. The first accused was found guilty of repeating the offence.

The accused were sentenced to be severely scourged and branded. Thereafter both the accused to be confined in irons and to labour on the public works. The first accused for 15 years, and the second accused for 14 years.

\* Fiat Execution : *With remission of the branding.*

14. Fiscal v The Hottentot Convict, Klaas Flamink, 3 April 1827, (C.J.821, p.275-279)

The case was heard by the Court of Commissioners.

The accused, who was approximately 40 years of age, was found guilty of desertion and of contravening the Ordinance dated 29



August 1825.

\* The accused had a previous conviction dated 20 October 1820. Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for the period prescribed by the former sentence. (For life)

\* Fiat Execution : *With remission of the scourging.*

15. Fiscal v The Slave, Lodewyk of the Cape, 24 April 1827, (G.H.47/2/28; G.H.47/1/1, p.208 et seq.)

The accused was found guilty of wounding his master. Sentenced to be hanged by the neck until dead.

\* Court of Criminal Appeals : *On 28 April 1827 the accused lodged an appeal against the conviction and sentence with the Court of Criminal Appeals. On 23 June 1827 the Court upheld the appeal and reversed the sentence of the Court of Justice.*

16. Landdrost of Stellenbosch v The Convict Slave, Michiel of the Cape, 3 May 1827, (C.J.821, p.280-299)

The accused, who was approximately 30 years of age, was found guilty of desertion, vagabondising in a gang, theft of cattle, and theft from gardens.

\* The accused had two previous convictions dated 6 July 1820 and 30 July 1821.

Sentenced to be exposed to the public view under the gallows with a rope round his neck. Thereupon to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for the period prescribed by the sentence dated 30 July 1821. (For life)

\* Fiat Execution : *With remission of the branding.*

17. Secretary of The Cape District v The Prize Negroes, Dirk & Louis, 8 May 1827, (C.J.821, p.300-309)

The case was heard by the Board of Landdrost and Heemraden.

The first accused was found guilty of theft, and the second accused was found guilty of being an accomplice.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 5 years. The second accused was sentenced to be confined in prison until the Board adjourned.

\* Fiat Execution : *With remission of the confinement imposed on the first accused to 2 years.*

18. Fiscal v The Hottentot, Platje Jephtha, 21 May 1817, (C.J.821, p.310-321)

The case was heard by the Court of Commissioners.

The accused, who was approximately 26 years of age, was found guilty of an attempt to commit rape on a child of five.

Sentenced to be severely scourged.

19. Fiscal v Edward Harding, 29 May 1827, (C.J.821, p.352-367)

The accused, who was 20 years of age and was born in Ireland, was found guilty of culpable homicide.

Sentenced to be confined and to labour on the public works at Robben Island for life.

20. Landdrost of Stellenbosch v The Slave, Floris of the Cape, 2 July 1827, (C.J.821, p.368-375)  
The accused, who was approximately 35 years of age, was found guilty of desertion, vagabondising, plotting, housebreaking, and repeated theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 3 years.  
\* Fiat Execution : *With remission of the scourging.*
21. Fiscal v The Slave, Galant (Alias Manuel) of the Cape, 2 July 1827, (C.J.821, p.376-385)  
The accused, who was approximately 23 years of age, was found guilty of desertion, vagabondising, housebreaking, and theft.  
\* The accused had two previous convictions dated 29 August 1822 and 15 October 1825.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.  
\* Fiat Execution : *With remission of the scourging and branding.*
22. Fiscal v Thomas Weeler & Pieter Wilsnach, 16 July 1827, (C.J.821, p.386-391)  
The case was heard by the Court of Commissioners.  
The first accused, who was 14 years of age and was born in the colony, was found guilty of repeated theft. The second accused, who was 13 years of age and was born in the colony, was found guilty of receiving stolen goods.  
The first accused was sentenced to be banished from the colony for 5 years. The second accused was sentenced to be confined in prison for 8 days on a diet of bread and water.
23. Landdrost of Stellenbosch v The Slave, Welkom from Mocambique, 26 July 1827, (C.J.821, p.392-398)  
The accused, who was approximately 40 years of age, was found guilty of desertion, plotting, vagabondising, and complicity in housebreaking and theft.  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at Robben Island for 3 years.
24. Secretary of The Cape District v The Hottentots : 1) Jan Kleinboy; 2) Abraham Danzer; 3) Platje Witbooy; 4) Coert Armoed; 5) Danzer Zwartbooy; 6) Jan Theadoor; The Female Hottentots : 7) Sarah; 8) Frein & 9) Spatie, 31 July 1827, (C.J.821, p.399-406)  
The case was heard by the Board of Landdrost and Heemraden.  
The first, second, and third accused were found guilty of theft. The fourth, fifth, sixth, seventh, eighth, and ninth accused were found guilty of being accomplices.  
\* The fourth accused had a previous conviction dated 12 November 1822. The second, third, seventh, and ninth accused had previous convictions for theft.  
The first, second, third, and fourth accused were sentenced to be severely scourged. Thereafter the four accused to be confined in irons and to labour on the public works. The first and second accused for 5 years, the third accused for 2 years, and the fourth

accused for 1 year. The fifth accused was sentenced to be severely flogged in the prison. The seventh, eighth, and ninth accused were sentenced to be confined in the house of correction. The seventh and ninth accused for 3 months, and the eighth accused for 1 month.

25. Secretary of The Cape District v The Bushman, Solomon (Alias James), 2 August 1827, (C.J.821, p.407-410)  
The case was heard by the Board of Landdrost and Heemraden.  
The accused, who was approximately 20 years of age, was found guilty of the theft of a horse. (Stock Theft)  
Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works for 1 year.
26. Landdrost of Stellenbosch v The Convict Slave, Africa, 18 October 1827, (C.J.821, p.411-416)  
The accused, who was approximately 35 years of age, was found guilty of desertion, vagabondising, and theft of cattle. (Stock Theft)  
\* The accused had two previous convictions for housebreaking and theft, the last of which was dated 4 December 1826.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 10 years.  
\* Fiat Execution : *With remission of the scourging and branding.*
27. Fiscal v 1) The Hottentot, Willem Cornelis; 2) The Hottentot, Klaas (Alias Bosman); 3) The Slave, Klaas & 4) The Hottentot, Fluks (Alias Dirk Vervey), 23 October 1827, (C.J.821, p.417-422)  
The case was heard by the Court of Commissioners.  
The accused, who were convicts, were found guilty of desertion.  
The accused were sentenced to be severely scourged. Thereafter the four accused to be confined in irons and to labour on the public works in accordance with the terms stipulated in their previous sentences.  
\* Fiat Execution : *With remission of the scourging.*
28. Fiscal v Paul Christian Wolmerans, 29 October 1827, (C.J.821, p.423-430)  
The case was heard by the Court of Commissioners.  
The accused, a convict on Robben Island, who was 44 years of age and was born in the colony, was found guilty of attempting to kill a fellow convict.  
\* The accused had a previous conviction dated 16 April 1817.  
Sentenced to be transported to New South Wales for 5 years. The sentence to be brought into operation after the accused had served the term of his previous sentence dated 16 April 1817.
29. Landdrost of Albany v The Hottentot, Cobus Bruintjies, 20 November 1827, (C.J.821, p.431-436)  
The case was heard by the Circuit Court at Albany.  
The accused, who was approximately 28 years of age, was found guilty of wounding the Hottentot Hendrik Hendriks.  
Sentenced to be confined in irons and to labour on the public works at the Drostdy for 1 year.

\* Fiat Execution : *With remission of the confinement. The accused to be discharged one week after the promulgation of the sentence.*

30. Landdrost of Albany v The Hottentot, Jan Hector, 20 November 1827, (C.J.821, p.437-444)

The case was heard by the Circuit Court at Albany.

The accused, who was approximately 40 years of age, was found guilty of ill-treating his concubine, which resulted in her death. (Culpable Homicide)

Sentenced to be confined in irons for 5 years and to labour on the public works at the Drostdy.

31. Landdrost of Clanwilliam v The Hottentot, Piet Rooy, 26 November 1827, (C.J.821, p.445-450)

The accused, who was approximately 40 years of age, was found guilty of the murder of a Hottentot.

Sentenced to be hanged by the neck until dead.

32. Landdrost of Somerset v The Hottentot, Piet, 1 December 1827, (C.J.821, p.451-458)

The case was heard by the Circuit Court at Somerset.

The accused, who was approximately 30 years of age, was found guilty kidnapping, rape, and theft of cattle.

Sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works at Robben Island for 15 years.

33. Landdrost of Graaff Reinet v The Bushman, Nimrod, 5 December 1827, (C.J.821, p.322-331 & p.459-468)

The case was heard by the Circuit Court at Graaff Reinet.

The accused, who was approximately 23 years of age, was found guilty of public violence, theft of cattle, and wounding the Bushman Jantjie with a murderous instrument.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 15 years.

34. Landdrost of Graaff Reinet v The Hottentots : 1) Jonker; 2) Leendert; 3) Klaas Lambert; 4) Klaas Jacobus; 5) The Female Hottentot, Sanna & 6) The Female Hottentot, Kaatje, 5 December 1827, (C.J.821, p.332-343 & p.469-476)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 35 years of age, the second accused, who was approximately 45, the third accused, who was approximately 40, the fourth accused, who was approximately 25, the fifth accused, who was approximately 30, and the sixth accused, who was approximately 30, were found guilty of the theft of sheep. (Stock Theft)

\* The first and second accused had previous convictions dated 1 September 1823 and 6 July 1824. The third accused had a previous conviction dated 22 August 1822.

The first, second, third, and fourth accused were sentenced to be severely scourged. The first, second, and third accused to be branded. Thereafter the first, second, third, and fourth accused

to be confined in irons and to labour on the public works at the Drostdy. The first, second, and third accused for 5 years, and the fourth accused for 3 years. The confinement already undergone by the fifth and sixth accused was considered to be an adequate punishment.

\* Fiat Execution : *With remission of the scourging and branding.*

35. Landdrost of Graaff Reinet v The Hottentot, Booy & The Female Hottentot, Dolphina, 6 December 1827, (C.J.821, p.344-351 & p.477-483)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 35 years of age, was found guilty of violating his confinement and vagabondising. The second accused, who was approximately 20 years of age, was found guilty of vagabondising.

\* The first accused had a previous conviction for stock theft dated 8 January 1827, and the second accused had a previous conviction for being an accomplice to the stock theft.

The first accused was sentenced to be severely scourged. Thereafter to be confined in irons and to labour on the public works until the expiry of his former sentence dated 8 January 1827. (Two years) The confinement already undergone by the second accused was considered to be an adequate punishment.

36. Landdrost of Graaff Reinet v The Hottentots : 1) Platje; 2) Klaas Abraham & 3) The Female Hottentot, Anna, 6 December 1827, (C.J.821, p.484-491 & p.520-531)

The case was heard by the Circuit Court at Graaff Reinet.

The first accused, who was approximately 30 years of age, the second accused, who was approximately 40, and the third accused, who was approximately 30, were found guilty of vagabondising and theft of cattle. (Stock Theft)

\* The first accused had a previous conviction dated 21 November 1823.

The first and second accused were sentenced to be severely scourged. The first accused to be branded. Thereafter both the accused to be confined in irons and to labour on the public works at the Drostdy. The first accused for 5 years, and the second accused for 2 years. The confinement already undergone by the third accused was considered to be an adequate punishment.

\* Fiat Execution : *With remission of the scourging and branding.*

37. Landdrost of Stellenbosch v The Slave, Fredrik of the Cape, 13 December 1827, (C.J.821, p.492-499)

The accused, who was approximately 40 years of age, was found guilty of desertion, vagabondising, repeated housebreaking, and theft.

Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works for 5 years.

\* Fiat Execution : *With remission of the scourging and branding.*

38. Landdrost of Somerset v The Bushmen, Platje & Piqueu, 13 December 1827, (C.J.821, p.500-506)

The first accused, who was approximately 28 years of age, was

found guilty of murder. The second accused was discharged.  
Sentenced to be hanged by the neck until dead.

39. Landdrost of Graaff Reinet v The Slave, Lafleur of the Cape, 27 December 1827, (C.J.821, p.507-510)

The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 25 years.

\* Fiat Execution : *With the punishment commuted to seven years hard labour on the public works at Graaff Reinet.*

40. Landdrost of Graaff Reinet v The Bushmen, Windvogel & Jonker, 27 December 1827, (C.J.821, p.511-520)

The first accused, who was approximately 19 years of age, and the second accused, who was approximately 22, were found guilty of desertion, plotting, vagabondising, repeated housebreaking, theft, and murder.

The accused were sentenced to be hanged by the neck until dead.

found guilty of murder. The second accused was discharged.  
Sentenced to be hanged by the neck until dead.

39. Landdrost of Graaff Reinet v The Slave, Lafleur of the Cape, 27 December 1827, (C.J.821, p.507-510)

The accused was found guilty of housebreaking and theft.  
Sentenced to be severely scourged and branded. Thereafter to be confined in irons and to labour on the public works at the Drostdy for 25 years.

\* Fiat Execution : *With the punishment commuted to seven years hard labour on the public works at Graaff Reinet.*

40. Landdrost of Graaff Reinet v The Bushmen, Windvogel & Jonker, 27 December 1827, (C.J.821, p.511-520)

The first accused, who was approximately 19 years of age, and the second accused, who was approximately 22, were found guilty of desertion, plotting, vagabondising, repeated housebreaking, theft, and murder.

The accused were sentenced to be hanged by the neck until dead.